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STATE OF VERMONT
AGENCY OF NATURAL RESOURCES

VERMONT STATUTES

CONCERNING

AIR POLLUTION CONTROL

INCLUDING AMENDMENTS TO THE STATUTES THROUGH:
July 1, 2013

Air Quality and Climate Division
Department of Environmental Conservation
Agency of Natural Resources
Davis Building – 2nd Floor
One National Life Drive
Montpelier, Vermont 05620-3802
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http://www.anr.state.vt.us/air/

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§ 315. Statement of policy

It is the policy of this subchapter to provide for free and open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the General Assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed to implement this policy, and the burden of proof shall be on the public agency to sustain its action.

(Added 1975, No. 231 (Adj. Sess.), § 1; amended 2011, No. 59, § 1.)

§ 316. Access to public records and documents

(a) Any person may inspect or copy any public record of a public agency, as follows:
(1) For any agency, board, department, commission, committee, branch, instrumentality, or authority of the State, a person may inspect a public record on any day other than a Saturday, Sunday, or a legal holiday, between the hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock and four o'clock in the afternoon;
(2) For any agency, board, committee, department, instrumentality, commission, or authority of a political subdivision of the State, a person may inspect a public record during customary business hours.
(b) If copying equipment maintained for use by a public agency is used by the agency to copy the public record or document requested, the agency may charge and collect from the person requesting the copy the actual cost of providing the copy. The agency may also charge and collect from the person making the request, the costs associated with mailing or transmitting the record by facsimile or other electronic means. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.
(c) Unless otherwise provided by law, in the following instances an agency may also charge and collect the cost of staff time associated with complying with a request for a copy of a public record: (1) the time directly involved in complying with the request exceeds 30 minutes; (2) the agency agrees to create a public record; or (3) the agency agrees to provide the public record in a nonstandard format and the time directly involved in complying with the request exceeds 30 minutes. The agency may require that requests subject to staff time charges under this subsection be made in writing and that all charges be paid, in whole or in part, prior to delivery of the copies. Upon request, the agency shall provide an estimate of the charge.
(d) The Secretary of State, after consultation with the Secretary of Administration, shall establish the actual cost of providing a copy of a public record that may be charged by state agencies. The Secretary shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine "actual cost," the Secretary shall consider the following only: the cost of the paper or the electronic media onto which a public record is

copied, a prorated amount for maintenance and replacement of the machine or equipment used to copy the record and any utility charges directly associated with copying a record. The Secretary of State shall adopt, by rule, a uniform schedule of public record charges for State agencies.
(e) After public hearing, the legislative body of a political subdivision shall establish actual cost charges for copies of public records. The legislative body shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine actual cost charges, the legislative body shall use the same factors used by the Secretary of State. If a legislative body fails to establish a uniform schedule of charges, the charges for that political subdivision shall be the uniform schedule of charges established by the Secretary of State until the local legislative body establishes such a schedule. A schedule of public records charges shall be posted in prominent locations in the town offices.
(f) State agencies shall provide receipts for all moneys received under this section. Notwithstanding any provision of law to the contrary, a State agency may retain moneys collected under this section to the extent such charges represent the actual cost incurred to provide copies under this subchapter. Amounts collected by a State agency under this section for the cost of staff time associated with providing copies shall be deposited in the General Fund, unless another disposition or use of revenues received by that agency is specifically authorized by law. Charges collected under this section shall be deposited in the agency's operating account or the General Fund, as appropriate, on a monthly basis or whenever the amount totals $100.00, whichever occurs first.
(g) A public agency having the equipment necessary to copy its public records shall utilize its equipment to produce copies. If the public agency does not have such equipment, nothing in this section shall be construed to require the public agency to provide or arrange for copying service, to use or permit the use of copying equipment other than its own, to permit operation of its copying equipment by other than its own personnel, to permit removal of the public record by the requesting person for purposes of copying, or to make its own personnel available for making handwritten or typed copies of the public record or document requested.
(h) Standard formats for copies of public records shall be as follows: for copies in paper form, a photocopy of a paper public record or a hard copy print-out of a public record maintained in electronic form; for copies in electronic form, the format in which the record is maintained. Any format other than the formats described in this subsection is a nonstandard format.
(i) If an agency maintains public records in an electronic format, nonexempt public records shall be available for copying in either the standard electronic format or the standard paper format, as designated by the party requesting the records. An agency may, but is not required to, provide copies of public records in a nonstandard format, to create a public record or to convert paper public records to electronic format.
(j) A public agency may make reasonable rules to prevent disruption of operations, to preserve the security of public records or documents, and to protect them from damage.
(k) Information concerning facilities and sites for the treatment, storage, and disposal of hazardous waste shall be made available to the public under this subchapter in substantially the same manner and to the same degree as such information is made available under the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. chapter 82, subchapter 3, and the Federal Freedom of Information Act, 5 U.S.C. section 552 et seq. In the event of a conflict between the provisions of this subchapter and the cited federal laws, federal law shall govern.

(Added 1975, No. 231 (Adj. Sess.), § 1; amended 1987, No. 85, § 5, eff. June 9, 1987; 1995, No. 159 (Adj. Sess.), § 1; 2003, No. 158 (Adj. Sess.), § 4; 2011, No. 59, § 2.)

§ 317. Definitions; public agency; public records and documents

(a) As used in this subchapter:
(1) "Business day" means a day that a public agency is open to provide services.
(2) "Public agency" or "agency" means any agency, board, department, commission, committee, branch, instrumentality, or authority of the State or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the State.
(b) As used in this subchapter, "public record" or "public document" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying.
(c) The following public records are exempt from public inspection and copying:
(1) records which by law are designated confidential or by a similar term;
(2) records which by law may only be disclosed to specifically designated persons;
(3) records which, if made public pursuant to this subchapter, would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State;
(4) records which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the State of Vermont;
(5)(A) records dealing with the detection and investigation of crime, but only to the extent that the production of such records:
(i) could reasonably be expected to interfere with enforcement proceedings;
(ii) would deprive a person of a right to a fair trial or an impartial adjudication;
(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;
(iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;
(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;
(vi) could reasonably be expected to endanger the life or physical safety of any individual;
(B) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;
(C) It is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States;
(D) It is the intent of the General Assembly that, consistent with the manner in which courts have interpreted subdivision (A) of this subdivision (5), a public agency shall not reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime, unless withholding the identity or information would conceal government wrongdoing. A record shall not be withheld in its entirety because it contains identities or information that have been redacted pursuant to this subdivision;
(6) a tax return and related documents, correspondence and certain types of substantiating forms which include the same type of information as in the tax return itself filed with or maintained by the Vermont Department of Taxes or submitted by a person to any public agency in connection with agency business;

(7) personal documents relating to an individual, including information in any files maintained to hire, evaluate, promote, or discipline any employee of a public agency, information in any files relating to personal finances, medical or psychological facts concerning any individual or corporation; provided, however, that all information in personnel files of an individual employee of any public agency shall be made available to that individual employee or his or her designated representative;
(8) test questions, scoring keys, and other examination instruments or data used to administer a license, employment, or academic examination;
(9) trade secrets, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern, and which gives its user or owner an opportunity to obtain business advantage over competitors who do not know it or use it, except that the disclosures required by 18 V.S.A. § 4632 shall not be included in this subdivision;
(10) lists of names compiled or obtained by a public agency when disclosure would violate a person's right to privacy or produce public or private gain; provided, however, that this section does not apply to lists which are by law made available to the public, or to lists of professional or occupational licensees;
(11) student records, including records of a home study student, at educational institutions or agencies funded wholly or in part by State revenue; provided, however, that such records shall be made available upon request under the provisions of the Federal Family Educational Rights and Privacy Act of 1974 (P.L. 93-380) and as amended;
(12) records concerning formulation of policy where such would constitute a clearly unwarranted invasion of personal privacy, if disclosed;
(13) information pertaining to the location of real or personal property for public agency purposes prior to public announcement of the project and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts thereof;
(14) records which are relevant to litigation to which the public agency is a party of record, provided all such matters shall be available to the public after ruled discoverable by the court before which the litigation is pending, but in any event upon final termination of the litigation;
(15) records relating specifically to negotiation of contracts including collective bargaining agreements with public employees;
(16) any voluntary information provided by an individual, corporation, organization, partnership, association, trustee, estate, or any other entity in the State of Vermont, which has been gathered prior to the enactment of this subchapter, shall not be considered a public document;
(17) records of interdepartmental and intradepartmental communications in any county, city, town, village, town school district, incorporated school district, union school district, consolidated water district, fire district, or any other political subdivision of the State to the extent that they cover other than primarily factual materials and are preliminary to any determination of policy or action or precede the presentation of the budget at a meeting held in accordance with section 312 of this title;
(18) records of the office of internal investigation of the Department of Public Safety, except as provided in 20 V.S.A. § 1923;
(19) records relating to the identity of library patrons or the identity of library patrons in regard to library patron registration records and patron transaction records in accordance with 22 V.S.A. chapter 4;
(20) information which would reveal the location of archeological sites and underwater historic properties, except as provided in 22 V.S.A. § 762;
(21) lists of names compiled or obtained by Vermont Life magazine for the purpose of developing and maintaining a subscription list, which list may be sold or rented in the sole discretion of Vermont Life magazine, provided that such discretion is exercised in furtherance of

that magazine's continued financial viability, and is exercised pursuant to specific guidelines adopted by the editor of the magazine;
(22) any documents filed, received, or maintained by the Agency of Commerce and Community Development with regard to administration of 32 V.S.A. chapter 151, subchapters 11C and 11D (new jobs tax credit; manufacturer's tax credit), except that all such documents shall become public records under this subchapter when a tax credit certification has been granted by the Secretary of Administration, and provided that the disclosure of such documents does not otherwise violate any provision of Title 32;
(23) any data, records, or information developed, discovered, collected, or received by or on behalf of faculty, staff, employees, or students of the University of Vermont or the Vermont State Colleges in the conduct of study, research, or creative efforts on medical, scientific, technical, scholarly, or artistic matters, whether such activities are sponsored alone by the institution or in conjunction with a governmental body or private entity, until such data, records, or information are published, disclosed in an issued patent, or publicly released by the institution or its authorized agents. This subdivision applies to research notes and laboratory notebooks, lecture notes, manuscripts, creative works, correspondence, research proposals and agreements, methodologies, protocols, and the identities of or any personally identifiable information about participants in research;
(24) records of, or internal materials prepared for, the deliberations of any public agency acting in a judicial or quasi-judicial capacity;
(25) passwords, access codes, user identifications, security procedures, and similar information the disclosure of which would threaten the safety of persons or the security of public property;
(26) information and records provided to the Department of Financial Regulation by an individual for the purposes of having the department assist that individual in resolving a dispute with any person or company regulated by the Department, and any information or records provided by a company or any other person in connection with the individual's dispute;
(27) information and records provided to the Department of Public Service by an individual for the purposes of having the Department assist that individual in resolving a dispute with a utility regulated by the Department, or by the utility or any other person in connection with the individual's dispute;
(28) records of, and internal materials prepared for, independent external reviews of health care service decisions pursuant to 8 V.S.A. § 4089f and of mental health care service decisions pursuant to 8 V.S.A. § 4089a;
(29) the records in the custody of the Secretary of State of a participant in the address Confidentiality Program described in 15 V.S.A. chapter 21, subchapter 3, except as provided in that subchapter;
(30) all code and machine-readable structures of State-funded and controlled database applications, which are known only to certain State departments engaging in marketing activities and which give the State an opportunity to obtain a marketing advantage over any other state, regional, or local governmental or nonprofit quasi-governmental entity, or private sector entity, unless any such State department engaging in marketing activities determines that the license or other voluntary disclosure of such materials is in the State's best interests;
(31) records of a registered voter's month and day of birth, motor vehicle operator's license number, the last four digits of the applicant's Social Security number, and street address if different from the applicant's mailing address contained in an application to the statewide voter checklist or the statewide voter checklist established under 17 V.S.A. § 2154;
(32) with respect to publicly-owned, -managed, or -leased structures, and only to the extent that release of information contained in the record would present a substantial likelihood of jeopardizing the safety of persons or the security of public property, final building plans, and as-built plans, including drafts of security systems within a facility, that depict the internal layout and structural elements of buildings, facilities, infrastructures, systems, or other structures

owned, operated, or leased by an agency before, on, or after the effective date of this provision; emergency evacuation, escape, or other emergency response plans that have not been published for public use; and vulnerability assessments, operation and security manuals, plans, and security codes. For purposes of this subdivision, "system" shall include electrical, heating, ventilation, air conditioning, telecommunication, elevator, and security systems. Information made exempt by this subdivision may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is bidding on or performing work on or related to buildings, facilities, infrastructures, systems, or other structures owned, operated, or leased by the State. The entities or persons receiving such information shall maintain the exempt status of the information. Such information may also be disclosed by order of a court of competent jurisdiction, which may impose protective conditions on the release of such information as it deems appropriate. Nothing in this subdivision shall preclude or limit the right of the General Assembly or its committees to examine such information in carrying out its responsibilities or to subpoena such information. In exercising the exemption set forth in this subdivision and denying access to information requested, the custodian of the information shall articulate the grounds for the denial;
(33) the account numbers for bank, debit, charge, and credit cards held by an agency or its employees on behalf of the agency;
(34) affidavits of income and assets as provided in 15 V.S.A. § 662 and Rule 4 of the Vermont Rules for Family Proceedings;
(35) Expired.]
(36) anti-fraud plans and summaries submitted by insurers to the Department of Financial Regulation for the purposes of complying with 8 V.S.A. § 4750;
(37) records provided to the Department of Health pursuant to the Patient Safety Surveillance and Improvement System established by 18 V.S.A. chapter 43a;
(38) records held by the Agency of Human Services, which include prescription information containing prescriber-identifiable data, that could be used to identify a prescriber, except that the records shall be made available upon request for medical research, consistent with and for purposes expressed in 18 V.S.A. §§ 4621, 4631, 4632, 4633, and 9410 and 18 V.S.A. chapter 84, or as provided for in 18 V.S.A. chapter 84A and for other law enforcement activities;
(39) records held by the Agency of Human Services or the Department of Financial Regulation, which include prescription information containing patient-identifiable data, that could be used to identify a patient;
(40) records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title;
(41) documents reviewed by the Victim's Compensation Board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c).

(Added 1975, No. 231 (Adj. Sess.), § 1; amended 1977, No. 202 (Adj. Sess.); 1979, No. 156 (Adj. Sess.), § 6; 1981, No. 227 (Adj. Sess.), § 4; 1989, No. 28, § 2; 1989, No. 136 (Adj. Sess.), § 1; 1995, No. 46, §§ 23, 58; 1995, No. 159 (Adj. Sess.), § 2; No. 167 (Adj. Sess.), § 29; No. 182 (Adj. Sess.), § 21, eff. May 22, 1996; No. 180 (Adj. Sess.), § 38; No. 190 (Adj. Sess.), § 1(a); 1997, No. 159 (Adj. Sess.), § 12, eff. April 29, 1998; 1999, No. 134 (Adj. Sess.), § 3, eff. Jan. 1, 2001; 2001, No. 28, § 9, eff. May 21, 2001; 2001, No. 76 (Adj. Sess.), § 3, eff. Feb. 19, 2002; No. 78 (Adj. Sess.), § 1, eff. Apr. 3, 2002; 2003, No. 59, § 1, eff. Jan. 1, 2006; 2003, No. 63, § 29, eff. June 11, 2003; 2003, No. 107 (Adj. Sess.), § 14; 2003, No. 146 (Adj. Sess.), § 6, eff. Jan. 1, 2005; 2003, No. 158 (Adj. Sess.), § 2; 2003, No. 159 (Adj. Sess.), § 12; 2005, No. 132 (Adj. Sess.), § 1; 2005, No. 179 (Adj. Sess.), § 3; 2005, No. 215 (Adj. Sess.), § 326; 2007, No. 80, § 18; 2007, No. 110 (Adj. Sess.), § 3; 2007, No. 129 (Adj. Sess.), § 2; 2009, No. 59, § 5; 2009, No. 107 (Adj. Sess.), § 5, eff. May 14, 2010; 2011, No. 59, § 3; 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012; 2011, No. 145 (Adj. Sess.), § 8, eff. May 15, 2012; 2013, No. 70, § 1.)

§ 317a. Disposition of public records

A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to 3 V.S.A. § 117(a)(5).

(Added 2007, No. 96 (Adj. Sess.), § 1.)

§ 318. Procedure

(a) Upon request, the custodian of a public record shall promptly produce the record for inspection, except that:
(1) if the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall so certify this fact in writing to the applicant and set a date and hour within one calendar week of the request when the record will be available for examination;
(2) if the custodian considers the record to be exempt from inspection under the provisions of this subchapter, the custodian shall so certify in writing. Such certification shall identify the records withheld and the basis for the denial. A record shall be produced for inspection or a certification shall be made that a record is exempt within three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection. The certification shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial. The custodian shall also notify the person of his or her right to appeal to the head of the agency any adverse determination;
(3) if appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title;
(4) if a record does not exist, the custodian shall certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian;
(5) in unusual circumstances as herein specified the time limits prescribed in this subsection may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten business days from receipt of the request. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:
(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the Attorney General.
(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial of such request.

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal. A written determination shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.
(2) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.
(d) In responding to a request to inspect or copy a record under this subchapter, a public agency shall consult with the person making the request in order to clarify the request or to obtain additional information that will assist the public agency in responding to the request and, when authorized by this subchapter, in facilitating production of the requested record for inspection or copying. In unusual circumstances, as that term is defined in subdivision (a)(5) of this section, a public agency may request that a person seeking a voluminous amount of separate and distinct records narrow the scope of a public records request.
(e) A public agency shall not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the public agency shall redact the information it considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.
(f) If a person making the request has a disability which requires accommodation to gain equal access to the public record sought, the person shall notify the public agency of the type of accommodation requested. The public agency shall give primary consideration to the accommodation choice expressed by the requestor, but may propose an alternative accommodation so long as it achieves equal access. The public agency shall provide accommodation to the person making the request unless the agency can demonstrate that accommodation would result in a fundamental alteration in the nature of its service, programs, activities, or in undue financial and administrative burden.
(g) The Secretary of State shall provide municipal public agencies and members of the public information and advice regarding the requirements of the Public Records Act and may utilize informational websites, toll-free telephone numbers, or other methods to provide such information and advice.

(Added 1975, No. 231 (Adj. Sess.), § 1; amended 2005, No. 132 (Adj. Sess.), § 2; 2007, No. 110 (Adj. Sess.), § 1; 2011, No. 59, § 4.)

TITLE 3 Executive
PART 2 Executive Reorganization
CHAPTER 51. NATURAL RESOURCES

§ 2805. Environmental Permit Fund

(a) There is hereby established a special fund to be known as the Environmental Permit Fund. Within the Fund, there shall be two accounts: the Environmental Permit Account and the Air Pollution Control Account. Unless otherwise specified, fees collected in accordance with subsections 2822(i) and (j) of this title, and 10 V.S.A. § 2625 and gifts and appropriations shall be deposited in the Environmental Permit Account. Fees collected in accordance with subsections 2822(j)(1), (k), (l), and (m) of this title shall be deposited in the Air Pollution Control Account. The Environmental Permit Fund shall be used to implement the programs specified under section 2822 of this title. The Secretary of Natural Resources shall be responsible for the fund and shall account for the revenues and expenditures of the Agency of Natural Resources. The Environmental Permit Fund shall be subject to the provisions of 32 V.S.A. chapter 7, subchapter 5. The Environmental Permit Fund shall be used to cover a portion of the costs of administering the Environmental Division established under 4 V.S.A. chapter 27. The amount of $143,000.00 per fiscal year shall be disbursed for this purpose.

(b) Any fee required to be collected under subdivision 2822(j)(1) of this title shall be utilized solely to cover all reasonable (direct or indirect) costs required to support the operating permit program authorized under 10 V.S.A. chapter 23. Any fee required to be collected under subsection 2822(k), (l), or (m) of this title for air pollution control permits or registrations or motor vehicle registrations shall be utilized solely to cover all reasonable (direct or indirect) costs required to support the programs authorized under 10 V.S.A. chapter 23. Fees collected pursuant to subsections 2822(k), (l), and (m) of this title shall be used by the Secretary to fund activities related to the Secretary's hazardous or toxic contaminant monitoring programs and motor vehicle-related programs.

(Added 1989, No. 279 (Adj. Sess.), § 1, eff. June 30, 1990; amended 1993, No. 92, § 8; 1995, No. 186 (Adj. Sess.), § 19, eff. May 22, 1996; 1997, No. 15, § 2, eff. May 6, 1997; 1997, No. 155 (Adj. Sess.), § 31; 2001, No. 65, § 22; 2003, No. 163 (Adj. Sess.), § 18; 2007, No. 65, § 397, eff. June 4, 2007; 2009, No. 154 (Adj. Sess.), § 236; 2011, No. 162 (Adj. Sess.), § E.700.)

§ 2822. Budget and report; powers

(a) The Secretary shall be responsible to the Governor and shall plan, coordinate, and direct the functions vested in the Agency. The Secretary shall prepare and submit to the Governor an annual budget.

(b) The Secretary shall also have the powers and duties set forth in section 2803 of this title.
(c) If a waiver has been granted by the Public Service Board under 30 V.S.A. § 248(k), the Secretary or the Secretary's designee shall expedite and may authorize temporary emergency permits with appropriate conditions to minimize significant adverse environmental impacts within the jurisdiction of the Agency, after limited or no opportunity for public comment, allowing site preparation for or construction or operation of an electric transmission facility or a generating facility necessary to assure the stability or reliability of the electric system or a natural gas facility, regardless of any provision in Title 10 or 29 V.S.A. chapter 11. Such authorization shall be given only after findings by the Secretary that: good cause exists because an emergency situation has occurred; the applicant will fulfill any conditions imposed to minimize significant adverse environmental impacts; and the applicant will, upon the expiration of the temporary emergency permit, remove, relocate, or alter the facility as required by law or by an order of the Public Service Board. A permit issued under this subsection shall be subject to such conditions as are required by the Secretary and shall be valid for the duration of the declared emergency plus 180 days, or such lesser overall term as determined by the Secretary. Upon the expiration of a temporary emergency permit under this subsection, if any applicable permits have not been issued by the Secretary or the Commissioner of Environmental Conservation, the Secretary may seek enforcement under applicable law.
(d) The Secretary may adopt rules to implement the authority to issue expedited, temporary emergency permits specified in subsection (c) of this section and in 20 V.S.A. § 9(11).
(e) The Secretary, with the approval of the Secretary of Administration, may transfer any unexpended funds appropriated in a capital construction act to other projects authorized in the same section of that act.
(f) For any Agency program, the Secretary may provide for simplified application forms and procedures for minor projects.
(g) The Secretary shall make all practical efforts to process permits in a prompt manner. The Secretary shall establish time limits for the processing of each permit as well as procedures and time periods within which to notify applicants whether an application is complete. The Secretary shall report no later than the third Tuesday of each annual legislative session to the General Assembly by electronic submission. The annual report shall assess the Agency's performance in meeting the limits; identify areas which hinder effective Agency performance; list fees collected for each permit; summarize changes made by the Agency to improve performance; describe staffing needs for the coming year; certify that the revenue from the fees collected is at least equal to the costs associated with those positions; and discuss the operation of the Agency during the preceding fiscal year and the future goals and objectives of the Agency. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. This report is in addition to the fee report and request required by 32 V.S.A. chapter 7, subchapter 6.
(h) [Repealed.]
(i) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. In addition, the persons who are exempt under 32 V.S.A. § 710 are also exempt from the application fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I) and (II) of this section if they otherwise meet the requirements of 32 V.S.A. § 710. Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), (2), (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services, except that a municipality shall also be exempt from those fees for orphan stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this section when the municipality agrees to become an applicant or co-applicant for an orphan stormwater system under 10 V.S.A. § 1264c.

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of natural resources.
(1) For air pollution control permits or registrations issued under 10 V.S.A. chapter 23:
(A) Any persons subject to the provisions of 10 V.S.A. § 556 shall submit with each permit application or with each request for a permit amendment, a base service fee in accordance with the base fee schedule in subdivision (i) of this subdivision (1)(A). Prior to taking final action under 10 V.S.A. § 556 on any application for a permit for a nonmajor stationary source or on any request for an amendment of a permit for such a source, the Secretary shall assess each applicant for any additional fees due to the Agency, assessed in accordance with the base fee schedule and the supplementary fee schedule in subdivision (ii) of this subdivision (1)(A). The applicant shall submit any fees so assessed to the Secretary prior to issuance of the final permit, notwithstanding the provisions of subsection (i) of this section. The base fee schedule and the supplementary fee schedule are applicable to all applications on which the Secretary makes a final decision on or after the date on which this section is operative.
(i) Base fee schedule
(I) Application for permit to construct or modify source
(aa) Major stationary source $ 15,000.00
(bb) Nonmajor stationary source $ 2,000.00
(II) Amendments
Change in business name, division name or plant name; mailing address; or company stack designation; or other administrative amendments $ 150.00
(ii) Supplementary fee schedule for nonmajor stationary sources
(I) Engineering review $ 2,000.00
(II) Air quality impact analysis
Review refined modeling $ 2,000.00
(III) Observe and review source emission testing $ 2,000.00
(IV) Audit performance of continuous emissions monitors $ 2,000.00
(V) Audit performance of ambient air monitoring $ 2,000.00
(VI) Implement public comment requirement $ 500.00.
(B) Any person required to register an air contaminant source under 10 V.S.A. § 555(c) shall submit an annual registration fee in accordance with the following registration fee schedule, where the sum of a source's emissions of the following air contaminants is greater than five tons per year: sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, and hydrocarbons:
Registration: $0.0335 per pound of emissions of any of these contaminants. Where the sum of a source's emission of these contaminants is greater than ten tons per year, provided that a plant producing renewable energy as defined in 30 V.S.A. § 8002 shall pay an annual fee not exceeding $64,000.00:
Base registration fee $1,500.00; and $0.0335 per pound of emissions of any of these contaminants.

…

(k) Commencing with registration year 1993 and for each year thereafter, any person required to pay a fee to register an air contaminant source under 10 V.S.A. § 555(c) in addition shall pay fees for any emissions of the following types of hazardous air contaminants. The following fees shall not be assessed for emissions resulting from the combustion of any fuels, except solid waste, in fuel burning or manufacturing process equipment.
(1) Contaminants which cause short-term irritant effects - $0.012 per pound of emissions;
(2) Contaminants which cause chronic systemic toxicity (low potency)- $0.0225 per pound of emissions;
(3) Contaminants which cause chronic systemic toxicity (high potency) - $0.03 per pound of emissions;
(4) Contaminants known or suspected to cause cancer (low potency) - $0.825 per pound of emissions;
(5) Contaminants known or suspected to cause cancer (high potency) - $15.00 per pound of emissions.
(l) Commencing with registration year 1993 and for each year thereafter, any person required to pay a fee to register an air contaminant source under 10 V.S.A. § 555(c) in addition shall pay the following fees for emissions of hazardous air contaminants resulting from the combustion of any of the following fuels in fuel burning or manufacturing process equipment.
(1) Coal - $0.645 per ton burned;
(2)(A) Wood - $0.155 per ton burned; or
(B) Wood burned with an operational electrostatic precipitator and NOx reduction technologies - $0.0375 per ton burned;
(3) No. 6 grade fuel oil - $0.00075 per gallon burned;
(4) No. 4 grade fuel oil - $0.0006 per gallon burned;
(5) No. 2 grade fuel oil - $0.0003 per gallon burned;
(6) Liquid propane gas - $0.0003 per gallon burned;
(7) Natural gas - $1.305 per million cubic feet burned.
(m)(1) Except as provided in subdivision (3) of this subsection, in addition to any other requirement or fee required for registration, on and after January 1, 1994, a motor vehicle registered under 23 V.S.A. chapter 7 shall be assessed an annual emission fee of $1.00 at time of first registration and annually thereafter.
(2) The Department of Motor Vehicles shall collect the emission fee imposed in subdivision (1) of this subsection on an annual basis, consistent with the registration period. Notwithstanding 19 V.S.A. § 11, all funds collected shall be credited to the Fund established under section 2805 of this title.
(3) The fee imposed under subdivision (1) of this subsection shall not apply to any electrically powered vehicle, trailer, or government vehicle.
(4) The Department of Motor Vehicles shall not issue a registration for any vehicle for which the emission fee required under this subsection has not been paid.
(n) Notwithstanding the provisions of 32 V.S.A. § 603, the Secretary may provide environmental testing laboratory services and charge fees which shall be reasonably related to the cost of providing the services for State agencies. Fees collected under this subsection shall be credited to a special fund and shall be available to the Agency to offset the cost of providing the services.

(Added 1969, No. 246 (Adj. Sess.), § 4(b), (h), eff. June 1, 1970; amended 1971, No. 93, § 3, eff. April 22, 1971; 1971, No. 164 (Adj. Sess.), eff. March 21, 1972; 1975, No. 254 (Adj. Sess.), § 155; 1977, No. 78, § 1, eff. April 26, 1977; 1977, No. 106, § 2; 1979, No. 159 (Adj. Sess.), § 3; 1981, No. 222 (Adj. Sess.), § 2; 1983, No. 193 (Adj. Sess.), § 1, eff. April 27, 1984; 1985, No. 67, § 4; 1987, No. 76, §§ 1, 2, 18; 1987, No. 268 (Adj. Sess.), § 1, eff. June 21, 1988; 1989, No. 88, § 3; 1989, No. 98, § 4(a); 1989, No. 279 (Adj. Sess.), §§ 4, 8; 1991, No. 71, §§ 4, 4b; 1993, No. 48, §§ 1, 2, eff. June 1, 1993; 1993, No. 92, §§ 16, 17; 1993, No. 187 (Adj. Sess.), § 3, eff. Sept. 1, 1994; 1993, No. 221 (Adj. Sess.), § 4g; 1995, No. 48, § 1; 1995, No. 103 (Adj. Sess.), § 8; 1995, No. 141 (Adj. Sess.), § 9, eff. Apr. 30, 1996; 1997, No. 106 (Adj. Sess.), §§ 3, 4, eff. April 27, 1998; 1997, No. 155 (Adj. Sess.), § 32; 2001, No. 65, §§ 23, 24, 26; 2001, No. 133 (Adj. Sess.), § 2, eff. June 13, 2002; 2001, No. 143 (Adj. Sess.), §§ 52, 54, eff. June 21, 2002; 2003, No. 82 (Adj. Sess.), § 4; 2003, No. 140 (Adj. Sess.), § 5; 2003, No. 163 (Adj. Sess.), § 19; 2005, No. 15, § 1; 2005, No. 65, §

1; 2007, No. 76, §§ 30, 30a; 2007, No. 122 (Adj. Sess.), § 1; 2007, No. 153 (Adj. Sess.), § 3; 2007, No. 176 (Adj. Sess.), § 5, eff. May 28, 2008; 2009, No. 3, § 12a, eff. Sept. 1, 2009; 2009, No. 43, § 37, eff. May 27, 2009; 2009, No. 46, § 10b; 2009, No. 134 (Adj. Sess.), § 30; 2011, No. 139 (Adj. Sess.), § 4, eff. May 14, 2012; 2011, No. 161 (Adj. Sess.), § 1; 2013, No. 58, § 2, eff. June 3, 2013; 2013, No. 59, § 10.)

§ 2826. Environmental notice bulletin; permit handbook.

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

(1) Notice of administratively complete permit applications submitted to the department of environmental conservation.
(2) Notice of the comment period on the application and draft permit, if any, for those applications which were noticed.
(3) Notice of the issuance of a draft permit, if required by law, for those applications that were noticed.
(4) Information on how to request a public hearing or meeting.
(5) Notice of the name of the staff person to contact for information regarding public hearings or meetings with respect to a particular application.
(6) Notice of the issuance or denial of a permit for those applications that were noticed.

(b) By January 1, 1995, the secretary shall publish a permit handbook which lists all of the permits required for the programs administered by the department of environmental conservation. The handbook shall include examples of activities that require certain permits, an explanation in lay terms of each of the permitting programs involved, and the names, addresses and telephone numbers of the person or persons to contact for further information for each of the permitting programs. The handbook shall be updated, periodically.

(Added 1993, No. 232 (Adj. Sess.), § 23, eff. June 21, 1994; amended 2003, No. 115 (Adj. Sess.), § 5.)

§ 2873. Department of environmental conservation

(a) The department of environmental conservation is created within the agency of natural resources. The department is the successor to and continuation of the department of water resources and environmental engineering, and shall administer the water resources programs contained in Title 10; air pollution control and abatement as provided in chapter 23 of Title 10; waste disposal as provided in chapter 159 of Title 10; and subdivision and trailer and tent sites as provided in subsection (c) of this section.
(b) The department shall perform design and construction supervision services for major maintenance and capital construction projects for the agency and all of its components.
(c) [Repealed.]
(d) Nothing in this section shall prevent the commissioner of labor from exercising his or her authority to regulate public buildings.
(e) There is created within the department of environmental conservation a division of pollution prevention, which shall carry out nonregulatory functions of the department under 10 V.S.A. chapter 159, subchapter 2, in providing technical assistance and coordinating state efforts to

bring about a decrease, within the state, in the use of toxics and the generation of hazardous wastes. The office shall:
(1) Review toxics use reduction and hazardous waste reduction plans submitted by generators of hazardous wastes and by large users of toxic materials, as defined in 10 V.S.A. chapter 159, subchapter 2.
(2) Provide technical assistance to industry in its plan development, plan revisions, and plan improvement under 10 V.S.A. chapter 159, subchapter 2.
(3) Provide, direct, and manage on-site technical assistance under that chapter.
(4) Provide staff support to the toxics technical advisory board, and implement authorized and recommended programs.
(5) Sponsor, in conjunction with the toxics technical advisory board, industry-specific conferences, workshops and seminars on toxics use reduction and hazardous waste reduction, in order to enhance information exchange and technology transfer.
(6) Develop and maintain a technical library and information clearinghouse, and promote information dissemination to businesses that generate hazardous wastes or use toxic substances.
(7) Develop and distribute a newsletter and other information materials for business and industry, to assist in planning for toxics use reduction and reduction in the generation of hazardous waste.
(8) Maintain data and information systems on toxics use and hazardous waste reduction as specified in 10 V.S.A. chapter 159, subchapter 2, and use these systems to develop methods to measure the success of programs to reduce toxics use and the generation of hazardous waste.
(9) Coordinate ongoing technical assistance on these matters, within the agency and throughout state government.
(10) Work with other state agencies to evaluate, develop and promote pollution prevention strategies.
(11) Work with other state agencies to improve data and reporting systems with respect to toxics releases.
(12) Work with other state agencies to develop pilot programs that encourage toxics use reduction, multimedia source reduction, and reductions in the generation of hazardous waste.
(13) Review and comment on environmental regulatory programs and proposed rules, to assure that these programs provide incentives, rather than disincentives, to pollution prevention.
(f) There is created a toxics technical advisory board, that is attached to the division of pollution prevention.
(1) The board shall consist of at least five members appointed by the governor, representing the various geographic areas of the state and with expertise in professional disciplines such as occupational health and safety, industrial hygiene, engineering, chemistry, manufacturing, business, ecology and environmental protection. Members shall be selected from business and industry groups that are to be served by technical assistance.
(2) The board shall advise the office of pollution prevention on the creation and administration of a technical assistance program designed to provide guidance, advice, and technical assistance to generators of hazardous waste and users of toxics.
(3) The board shall serve as liaison with industry, business, trade associations and educational institutions, and shall assemble volunteer teams to perform on-site technical assistance and other forms of assistance to complement programs of the office of pollution prevention.
(4) The board shall establish and administer an award program for excellence in toxics use reduction and the reduction in the generation of hazardous waste.
(g) There is created within the department of environmental conservation a small business technical and environmental compliance assistance program. This program shall include each element specified in section 507(a) of the federal Clean Air Act (42 U.S.C. § 7401 et seq.) and

shall also be authorized to assist small businesses in similar fashion with regard to their obligations under all other environmental legislation administered by the department.
(h) [Repealed.]

(Added 1969, No. 246 (Adj. Sess.), § 11, eff. June 1, 1970; amended 1979, No. 159 (Adj. Sess.), § 8; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1983, No. 193 (Adj. Sess.), § 2, eff. April 27, 1984; 1987, No. 76, §§ 15, 16; 1987, No. 268 (Adj. Sess.), § 2, eff. June 21, 1988; 1991, No. 100, § 10; 1993, No. 92, § 9; 2001, No. 94 (Adj. Sess.), § 1, eff. May 2, 2002; 2001, No. 133 (Adj. Sess.), § 14, eff. June 13, 2002; 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006; 2009, No. 135 (Adj. Sess.), § 26(2)(D).)

TITLE 4: Judiciary
Chapter 27: ENVIRONMENTAL COURT

§ 1001. Environmental division

(a) The environmental division shall consist of two judges, each sitting alone.
(b) Two environmental judges shall be appointed to hear matters in the environmental division and to hear other matters in the superior court when so assigned by the administrative judge pursuant to subsection 21a(c) of this title.
(c) An environmental judge shall be an attorney admitted to practice before the Vermont supreme court. An environmental judge shall be nominated, appointed, confirmed, paid, and retained, and shall receive all benefits in the manner of a superior judge.
(d) An environmental judge shall be appointed on April 1, for a term of six years or the unexpired portion thereof.
(e) Evidentiary proceedings in the environmental division shall be held in the county in which all or a portion of the land which is the subject of the appeal is located or where the violation is alleged to have occurred, unless the parties agree to another location; provided, however, that the environmental judge shall offer expeditious evidentiary hearings so that no such proceedings are moved to another county to obtain an earlier hearing. Unless otherwise ordered by the court, all nonevidentiary hearings may be conducted by telephone or video conferencing using an audio or video record. If a party objects to a telephone hearing, the court may require a personal appearance for good cause.
(f) [Repealed.]
(g) The supreme court may enact rules and develop procedures consistent with this chapter to govern the operation of the environmental division and proceedings in it. In adopting these rules, the supreme court shall ensure that the rules provide for:
(1) expeditious proceedings that give due consideration to the needs of pro se litigants;
(2) the ability of the judge to hold pretrial conferences by telephone;
(3) the use of scheduling orders under the Vermont Rules of Civil Procedure in order to limit discovery to that which is necessary for a full and fair determination of the proceeding; and
(4) the appropriate use of site visits by the presiding judge to assist the court in rendering a decision.

(Added 1989, No. 98, § 2; amended 1991, No. 108, § 3; 1993, No. 92, § 14; 1993, No. 232 (Adj. Sess.), § 39, eff. March 15, 1995; 1995, No. 181 (Adj. Sess.), § 21; 2001, No. 149 (Adj. Sess.), § 73, eff. June 27, 2002; 2003, No. 115 (Adj. Sess.), § 9, eff. Jan. 31, 2005; 2009, No. 154 (Adj. Sess.), § 53.)

§ 1002. Conduct of hearings

Hearings before the environmental division shall be conducted in an impartial manner subject to rules of the supreme court providing for a summary, expedited proceeding.

(Added 1989, No. 98, § 2; amended 1993, No. 232 (Adj. Sess.), § 38, eff. March 15, 1995; 2009, No. 154 (Adj. Sess.), § 53a.)

§ 1003. Evidence.

(a) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The Vermont Rules of Evidence shall be followed, except that evidence not admissible under the Rules of Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the

record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(b) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

(Added 1989, No. 98, § 2.)

§ 1004. Access to information

(a) In connection with any proceedings under chapter 201 of Title 10, each party shall provide all other parties with all written statements and information in the possession, custody, or control of the party relative to the violation, including any technical studies, tests and reports, maps, architectural and engineering plans and specifications, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained, the names and addresses of the party's witnesses, and any other information which the environmental division deems necessary, in its sole discretion, to a fair and full determination of the proceeding.
(b) No other discovery or depositions, written interrogatories or requests to admit shall be permitted except that which is necessary for a full and fair determination of the proceeding.

(Added 1989, No. 98, § 2; amended 1993, No. 232 (Adj. Sess.), § 38, eff. March 15, 1995; 2003, No. 115 (Adj. Sess.), § 10, eff. Jan. 31, 2005; 2009, No. 154 (Adj. Sess.), § 53b.)

TITLE 10 Conservation and Development
PART 1 Development of Resources
CHAPTER 23. AIR POLLUTION CONTROL

§ 551. DECLARATION OF POLICY AND PURPOSE

(a) It is hereby declared to be the public policy of this state and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

(b) It is also declared that local and regional air pollution control programs are to be supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(c) To these ends it is the purpose of this chapter to provide for a coordinated statewide program of air pollution prevention, abatement and control, for an appropriate distribution of responsibilities among the state and local units of government, and to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions, and to provide a framework within which all values may be balanced in the public interest.

(1967, No. 310 (Adj. Sess.), § 1.)

§ 552. Definitions

As used in this chapter:
(1) "Agency" means the agency of natural resources.
(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities, and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property. Such effects may result from direct exposure to air contaminants, from deposition of air contaminants to other environmental media, or from alterations caused by air contaminants to the physical or chemical properties of the atmosphere.
(4) [Deleted.]
(5) "Emission" means a release into the outdoor atmosphere of air contaminants.
(6) "Person" shall mean an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word "person" also means any subdivision, agency, or instrumentality of this state, of any other state, of the United States, or of any interstate body.
(7) "Secretary" means the secretary of the agency of natural resources or the secretary's duly authorized representative.
(8) "Ozone-depleting chemical" means manufactured substances which are known or reasonably may be anticipated to cause or contribute to depletion of ozone in the earth's stratosphere.
(A) Primary ozone-depleting chemicals include:
(i) chlorofluorocarbon-11.
(ii) chlorofluorocarbon-12.
(iii) chlorofluorocarbon-113.
(iv) chlorofluorocarbon-114.
(v) chlorofluorocarbon-115.
(vi) halon-1211.

(vii) halon-1301.
(viii) halon-2402.
(ix) carbon tetrachloride.
(x) methyl chloroform.
(B) Other ozone-depleting chemicals include:
(i) hydrochlorofluorocarbon-22.
(ii) hydrochlorofluorocarbon-123.
(iii) hydrochlorofluorocarbon-124.
(iv) hydrochlorofluorocarbon-141(b).
(v) hydrochlorofluorocarbon-142(b).
(C) The secretary may list, by rule, other manufactured substances which are known or reasonably may be anticipated to cause or contribute to depletion of stratospheric ozone.
(9) "Reasonably available control technology" means devices, systems, process modifications, or other apparatus or techniques designed to prevent or control emissions that are reasonably available, taking into account the social, environmental and economic impact of such controls, and alternative means of emission control.
(10) "Schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to timely compliance with applicable requirements related to the control of air contaminant emissions or the prevention or control of air pollution.
(11) "Greenhouse gas" means any chemical or physical substance that is emitted into the air and that the secretary may reasonably anticipate to cause or contribute to climate change, including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(1967, No. 310 (Adj. Sess.), § 2; amended 1971, No. 212 (Adj. Sess.), § 1; 1979, No. 195 (Adj. Sess.), § 1, eff. May 6, 1980; 1987, No. 76, § 18; 1991, No. 266 (Adj. Sess.), § 3; 1993, No. 92, § 2; 2003, No. 115 (Adj. Sess.), § 11; 2007, No. 209 (Adj. Sess.), § 3.)

§ 553. AGENCY

The agency is designated as the air pollution control agency for the state. The secretary or his duly designated representative, within the agency, shall perform the functions vested in the agency, as specified in the following sections of this chapter.

(1967, No. 310 (Adj. Sess.), § 3; amended 1971, No. 212 (Adj. Sess.), § 2; 1979, No. 195 (Adj. Sess.), § 2, eff. May 6, 1980; 2003, No. 115 (Adj. Sess.), § 12, eff. Jan. 31, 2005.)

§ 554. POWERS

In addition to any other powers conferred on him by law the secretary shall have power to:

(1) Appoint and employ personnel and consultants as may be necessary for the administration of this chapter.

(2) Adopt, amend and repeal rules, implementing the provisions of this chapter.

(3) Hold hearings related to any aspect of or matter in the administration of this chapter, and in connection therewith, subpoena witnesses and the production of evidence.

(4) Issue orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state.

(6) [Repealed.]

(7) Encourage local units of government to handle air pollution problems within their respective jurisdiction, and by compact on a cooperative basis, and to provide technical and consultative assistance therefor.

(8) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(9) Determine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.

(10) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.

(11) Establish ambient air quality standards for the state as a whole or for any part thereof, based on nationally recognized criteria applicable to the state of Vermont.

(12) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(13) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(14) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of the device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any consultation shall be construed to relieve a person from compliance with this chapter, rules in force pursuant thereto, or any other provision of law.

(15) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. The funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the secretary.

(16) Have access to records relating to emissions which cause or contribute to air contamination.

(1967, No. 310 (Adj. Sess.), § 4; amended 1971, No. 212 (Adj. Sess.), § 3; 1989, No. 98, § 4(b).)

§ 555. CLASSIFICATION, REPORTING AND REGISTRATION

(a) The secretary, by rule, may classify air contaminant sources, which in his judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting by any class. Classifications made pursuant to this subsection may apply to the state as a whole or to any designated area of the state, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(b) Any person operating or responsible for the operation of air contaminant sources of any class for which the rules of the secretary require reporting shall make reports containing information as required by the secretary concerning location, size and height of contaminant outlets, processes employed, fuels used and the nature and time periods of duration of emissions, and such other information relevant to air pollution and available or reasonably capable of being assembled.

(c) Any person operating or responsible for the operation of an air contaminant source emitting more than five tons of contaminants per year shall register the source with the secretary and renew the registration annually. Each day of operating an air contaminant source without a valid, current registration shall constitute a separate violation and subject the operator to a civil penalty not to exceed $ 100.00 per violation. The secretary shall, after notice and opportunity for public hearing, promulgate rules to carry out this section.

(1967, No. 310 (Adj. Sess.), § 5; amended 1971, No. 212 (Adj. Sess.), § 3; 1987, No. 76, § 3.)

§ 556. Permits for the construction or modification of air contaminant sources

(a) No person shall construct or install any air contaminant source classified within a class or category identified by rule of the secretary as being subject to permitting requirements under this section without first submitting a complete application to and obtaining a permit from the secretary pursuant to this section. A complete application shall contain such plans, specifications and other information as the secretary deems necessary in order to determine whether the proposed construction or installation will be in compliance with the provisions of this chapter and with the rules adopted under this chapter. Each applicant shall pay an application fee as required by 3 V.S.A. § 2822.
(b) The secretary may require an applicant to submit any additional information which the secretary considers necessary to make the completeness determination required in subsection (a) of this section and shall not grant a permit until the information is furnished and evaluated. For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source constitutes a major stationary source or major modification under the rules of the secretary and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than 10 tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits.
(c) If the secretary determines that the proposed construction or installation of an air contaminant source will be in compliance with all requirements of this chapter and the rules adopted under this chapter, the secretary shall issue a permit containing such terms and conditions as may be necessary to carry out the purposes of this chapter. If the secretary determines that the proposed construction or installation of an air contaminant source will not be in compliance with all requirements of this chapter and the rules adopted under this chapter, the secretary shall deny the permit, shall notify the applicant in writing, and shall state in that document the reasons for the permit denial.
(d) The secretary may suspend, terminate, modify, or revoke for cause and may reissue any permit issued under this section.
(e) The secretary may issue an operating permit required under section 556a of this title in conjunction with or as a part of a permit to construct or install, issued under this section, provided that there is compliance with all applicable requirements of both sections.
(f) For the purposes of this chapter, the addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as the construction or installation of a new air contaminant source.
(g) All facilities or parts thereof identified in the plans, specifications or other information submitted pursuant to subsection (a) of this section shall be maintained in good working order.
(h) The absence or failure to issue a permit pursuant to this section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

(i) Notwithstanding any provisions of this section, section 5-503 of the air pollution control regulations, as adopted through April 27, 2007 (indirect source permits) is hereby repealed.
(Added 1967, No. 310 (Adj. Sess.), § 6; amended 1971, No. 212 (Adj. Sess.), § 3; 1993, No. 92, § 3; 2009, No. 54, § 56, eff. June 1, 2009; 2009, No. 146 (Adj. Sess.), § F8.)

§ 556a. Operating permits

(a) Upon a date specified in the rules adopted by the secretary to implement this section, it shall be unlawful for any person to operate an air contaminant source that has allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, except in compliance with a permit issued by the secretary under this section. The secretary may require that air contaminant sources with allowable emissions of 10 tons or less per year obtain such a permit, upon determining that the toxicity and quantity of hazardous air contaminants emitted may adversely affect susceptible populations, or if deemed appropriate based on an evaluation of the requirements of the federal Clean Air Act.
(b) Any person required by this section to have a permit shall, not later than 12 months after the date on which the source becomes subject to rules adopted by the secretary to implement this section, submit a complete permit application and related materials to the secretary. The secretary may require any applicant, including a person requesting permission to operate under the terms of a previously issued general permit, to submit any additional information which the secretary considers necessary in order to determine whether the operation of the air contaminant source will be in compliance with the provisions of this chapter and with the rules adopted under this chapter. The secretary may refuse to grant a permit, or permission to operate under the terms of a general permit, until that information is furnished and evaluated, and until that determination has been made. If a person submits a timely and complete application for a permit required by this section, but final action has not been taken on that application, the source's failure to have a permit shall not be a violation of this section, unless the delay in final action was due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application.
(c) For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and a draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source is subject to subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than ten tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits.
(d) Each permit issued under this section shall contain such terms and conditions as may be necessary to assure compliance with the requirements of this chapter and applicable rules and shall be issued for a fixed term, not to exceed five years. In addition, the secretary shall, where necessary, include in a permit issued under this section conditions which revise existing or set new emission control requirements for the source based on, at a minimum, the application of

reasonably available control technology. For any source that, in whole or in part, is not in compliance with all applicable requirements, the permit shall include an appropriate schedule of compliance which is acceptable to the secretary.
(e) A permit issued under this section may be renewed upon application to the secretary for a fixed period of time, not to exceed five years.
(1) A permit being renewed shall be subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance, except that a permit being renewed shall not be subject to the public notice and comment requirements of this chapter if all of the following apply:
(A) The secretary determines that no substantive changes have occurred at the air contaminant source that would affect emissions or require changes to the permit.
(B) The secretary determines no new statutory or regulatory requirements need to be added to the permit.
(C) The air contaminant source does not require a permit under subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control).
(2) The secretary shall not issue a permit renewal unless the applicant first demonstrates that the emissions from the subject source meet all applicable emission control requirements or are subject to, and in compliance with, an appropriate schedule of compliance.
(f) If an application for a permit renewal has been submitted to the secretary 12 months prior to the termination of the permit, and any additional information requested by the secretary has been submitted in a timely manner, but the secretary has failed to issue or deny the renewal permit before the end of the term of the previous permit, the permit shall not expire until the renewal permit has been issued or denied. In the event of a conflict between this subsection and 3 V.S.A. § 814(b), the provisions of this section shall govern.
(g) The secretary shall have power to suspend, terminate, modify, or revoke for cause and to reissue any permit issued under this section.
(h)(1) The secretary may issue general operating permits covering numerous similar sources. A general permit shall be adopted as an administrative rule under the provisions of 3 V.S.A. chapter 25. Each rule creating a general permit shall include provisions that require public notice of the fact that specified emitters have applied for general permits.
(2) Each rule creating a general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive a general permit, and a process by which aggrieved persons can obtain an opportunity to be heard on a request that the general permit be issued only subject to specific conditions to limit or mitigate the effects of the emissions in question. Based on information presented at such a hearing, an applicant may be required to obtain a permit other than a general permit, or may obtain a general permit subject to specified conditions.
(i) Failure of the secretary to act on a permit application or a permit renewal application within 18 months after the date of receipt of a completed application shall be treated as a final permit action solely for purposes of obtaining judicial review of such action by the applicant, by any person who participated in the public comment process or by any other adversely affected person in order to compel the secretary to act on such application without additional delay.
(j) Except in compliance with a permit issued by the secretary under this section, it shall be unlawful for a person to operate an air contaminant source that has allowable emissions of greenhouse gases that equal or exceed any threshold established by the U.S. Environmental Protection Agency at or above which such emissions are subject to the requirements of subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control). Based on available emission control technologies or energy efficiency measures, or as otherwise appropriate to implement the provisions of this chapter, the secretary may adopt rules to require air contaminant sources with allowable emissions below such threshold to obtain a permit under this section.

(Added 1993, No. 92, § 4; amended 2009, No. 146 (Adj. Sess.), § F9, eff. May 7, 2010.)

§ 557. INSPECTIONS

Any duly authorized officer, employee, or representative of the secretary may enter and inspect any property, premise or place on or at which an air contaminant source is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and rules in force pursuant thereto. No authorized person shall refuse entry or access to any authorized representative of the secretary who requests entry for purposes of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with the inspection. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(1967, No. 310 (Adj. Sess.), § 7; amended 1971, No. 212 (Adj. Sess.), § 3.)

§ 558. EMISSION CONTROL REQUIREMENTS

The secretary may establish such emission control requirements, by rule, as in his judgment may be necessary to prevent, abate, or control air pollution. The requirements may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this chapter, and in order to take necessary or desirable account of varying local conditions.

(1967, No. 310 (Adj. Sess.), § 8; amended 1971, No. 212 (Adj. Sess.), § 3.)

§ 559. Repealed. 1989, No. 98, § 4(b)

§ 560. EMERGENCY PROCEDURE

(a) Any other provisions of law to the contrary notwithstanding, if the secretary finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, with the concurrence of the governor, the secretary shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants and such order shall fix a place and time not later than twenty-four hours thereafter for a hearing to be held before the director. Not more than twenty-four hours after the commencement of such hearing and without adjournment thereof, the director shall affirm, modify or set aside the order.

(b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a) of this section, if the secretary finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, the director of occupational health may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of section 559 of this title. In that event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsections 559(a) and 559(b) shall apply.

(c) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and act on the basis of such declaration.

(1967, No. 310 (Adj. Sess.), § 10; amended 1971, No. 205 (Adj. Sess.), § 6; No. 212 (Adj. Sess.), § 3.)

§ 561. Variances

(a) A person who owns or is in control of any plant, building, structure, process, or equipment may apply to the secretary for a variance from the rules adopted under this chapter. The secretary may grant a variance if the secretary finds that:
(1) The emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety; and
(2) Compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.
(b) No variance shall be granted pursuant to this section except after public notice and an opportunity for a public meeting and until the secretary has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.
(c) Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:
(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, it shall be only until the necessary practicable means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the secretary may prescribe.
(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the secretary is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a time schedule for the taking of action in an expeditious manner and shall be conditioned on adherence to the time schedule.
(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivisions (1) and (2) of this subsection, it shall be for not more than one year, except that a variance granted from the rules of the secretary pertaining to stage II vapor recovery controls at gasoline dispensing facilities shall be for a period that extends until January 1, 2013.
(d) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods, which would be appropriate on initial granting of a variance. If complaint is made to the secretary on account of the variance, no renewal thereof shall be granted, unless following public notice and an opportunity for a public meeting on the complaint, the secretary finds that renewal is justified. No renewal shall be granted except on application therefore. The application shall be made at least 60 days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the secretary shall give public notice of the application.
(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the secretary.
(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section 560 of this chapter to any person or the person's property.
(g) On application from a person who is subject to an increased air emission fee caused by amendments to the provisions of 3 V.S.A. § 2822(j), (k), and (l), the secretary may grant an amendment in fee amount. A fee amendment under this subsection may be granted only if the applicant establishes that payment of fees would produce serious hardship. Fee amendments granted under this subsection shall not be subject to the findings required for the issuance of a

variance under subsection (a) of this section, but fee amendments shall otherwise be subject to the provisions of this chapter regarding variances.

(Added 1967, No. 310 (Adj. Sess.), § 11; amended 1971, No. 212 (Adj. Sess.), § 3; 1993, No. 92,§§ 5, 19; 1993, No. 232 (Adj. Sess.), § 38, eff. March 15, 1995; 2003, No. 115 (Adj. Sess.), § 13, eff. Jan. 31, 2005; 2005, No. 26, § 4; 2009, No. 22, § 9(c).)

§ 562. HEARINGS AND JUDICIAL REVIEW

(a) No rule or regulation and no amendment or repeal thereof shall take effect except after public hearing. The secretary shall appoint a time and place for the hearing and shall order the publication of the substance thereof and of the time and place of hearing two weeks successively in the daily newspapers of the state, the last publication to be at least seven days before the day appointed for the hearing.

(b) Nothing in this section shall be construed to require a hearing before issuance of an emergency order pursuant to section 560 of this chapter.

(c) [Repealed.]

(d) - (f) [Deleted]

(g) If a permit is denied under this section, and that denial is the subject of either an appeal or a request for a variance, the applicant need not commence application proceedings anew, once those issues are resolved.

(1967, No. 310 (Adj. Sess.), § 12; amended 1971, No. 185 (Adj. Sess.), § 24, eff. March 29, 1972; No. 212 (Adj. Sess.), § 3; 1993, No. 92, § 6; 1993, No. 92, § 6; 1993, No. 232 (Adj. Sess.), § 38, eff. March 15, 1995; 2003, No. 115 (Adj. Sess.), § 14, eff. Jan. 31, 2005.)

§ 563. CONFIDENTIAL RECORDS; PENALTY

(a) Confidential records. Any records or other information furnished to or obtained by the secretary concerning one or more air contaminant sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of the owner or operator, shall be only for the confidential use of the secretary in the administration of this chapter, unless the owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of the records or information by the secretary in compiling or publishing analyses of summaries relating to the general condition of the outdoor atmosphere: provided that the analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

(b) Penalty. A person who knowingly violates this section shall be fined not to exceed $100.00.

(1967, No. 310 (Adj. Sess.), § 13; amended 1971, No. 212 (Adj. Sess.), § 3.)

§ 564. LOCAL AIR POLLUTION CONTROL PROGRAMS

(a) A municipality may establish and thereafter administer within its jurisdiction an air pollution control program which:

(1) Provides by ordinance or local law for requirements compatible with, or stricter or more extensive than, those imposed by sections 558, 560 and 561 of this title and regulations issued thereunder;

(2) Provides for the enforcement of such requirements by appropriate administrative and judicial process;

(3) Provides for administrative organizations, staff, financial and other resources necessary to effectively and efficiently carry out its program; and

(4) Is approved by the secretary as adequate to meet the requirements of this chapter and any applicable rules and regulations pursuant thereto.

(b) A municipality may administer all or part of its air pollution control program in a compact if the program meets the requirements of subsection (a) of this section.

(c) If an approved local air pollution authority so petitions and the secretary finds that the control of a particular class of air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local air pollution control authorities or may be more efficiently and economically performed at the state level, he may assume and retain jurisdiction over that class of air contaminant source. Classifications pursuant to this subsection may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

(d) Nothing in this chapter shall be construed to supersede or oust the jurisdiction of any local air pollution control program in operation on July 1, 1968: provided that within two years from such date any such program shall meet all requirements of this chapter for a local air pollution control program. Any approval required from the secretary shall be deemed granted unless the secretary takes specific action to the contrary.

(1967, No. 310 (Adj. Sess.), § 14; amended 1971, No. 212 (Adj. Sess.), § 3.)

§ 565. BURNING WOOD WITHIN MUNICIPALITY

(a) Any other provision notwithstanding, the legislative branch of a municipality may authorize the burning of natural wood and chemically untreated wood at a place within the municipality. The burning of the wood shall be conducted under the direction and at such times as the fire warden for the municipality determines.

(b) [Repealed.]

(1971, No. 244 (Adj. Sess.), eff. April 6, 1972; amended 1973, No. 224 (Adj. Sess.), eff. April 3, 1974; 1977, No. 56, § 1, eff. April 21, 1977.)

§ 566. STATE AND FEDERAL AID

Local air pollution control agencies established or approved pursuant to this chapter may make application for, receive, administer and expend federal funds for the control of air pollution or the development and administration of programs related to air pollution control, provided the application is first submitted to and approved by the secretary. The secretary shall approve the application if it is consistent with this chapter and any other applicable requirements of law.

(1967, No. 310 (Adj. Sess.), § 15; amended 1971, No. 212 (Adj. Sess.), § 3.)

§ 567. MOTOR VEHICLE POLLUTION

(a) The secretary in conjunction with the motor vehicle department may provide rules for the control of emissions from motor vehicles. Such rules may prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of the equipment and the vehicles. Rules pursuant to this section shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned and shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if the feature or equipment has been certified, approved or otherwise authorized pursuant to federal law.

(b) Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle and required by rules pursuant to this chapter to be maintained in or on the vehicle. Any failure to maintain in good working order or removal, dismantling or causing of inoperability shall subject the owner or operator to suspension or cancellation of the registration for the vehicle by the motor vehicle department. The vehicle shall not thereafter be eligible for registration until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(c) The secretary shall consult with the motor vehicle department and furnish it with technical information, including testing techniques, standards and instructions for emission control features and equipment.

(d) When rules have been issued requiring the maintenance of features or equipment in or on motor vehicles for the purpose of controlling emissions therefrom, no motor vehicle shall be issued an inspection sticker unless all the required features or equipment have been inspected in accordance with the standards, testing techniques and instructions furnished pursuant to subsection (b) hereof and has been found to meet those standards.

(e) The remedies and penalties provided here apply to violations of this section and provisions of section 568 of this title shall not apply.

(f) As used in this section "motor vehicle" shall have the same meaning as defined in section 4 of Title 23.

(1967, No. 310 (Adj. Sess.), § 16; amended 1971, No. 212 (Adj. Sess.), § 3.)

§ 568. PENALTIES

(a) Any person who knowingly violates any provisions of this chapter or the rules adopted under this chapter or who knowingly fails or refuses to obey or comply with any order or the terms or conditions of any permit issued in accordance with this chapter, shall be fined not more than $100,000.00 or be imprisoned not more than five years, or both. Each violation may be considered a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense. These penalties shall not apply to violations of section 563 of this title.

(b) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter, or by any permit, rule, regulation or order issued under this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, rule, regulation, or order issued under this chapter, shall upon conviction, be punished by a fine of not more than $50,000.00 or by imprisonment for not more than one year, or by both. Each violation may be considered a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(1967, No. 310 (Adj. Sess.), § 17; amended 1971, No. 212 (Adj. Sess.), § 3; 1993, No. 92, § 7.)

§ 569. LIMITATIONS

Nothing in this chapter shall be construed to:

(1) Affect the relations between employers and employees with respect to or arising out of any condition of air contamination or air pollution.

(2) Supersede or limit the applicability of any law or ordinance relating to sanitation, industrial health or safety.

(3) Grant to the director any jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, works or shops or private property appurtenant thereto.

(1967, No. 310 (Adj. Sess.), § 18.)

§ 570. EXEMPTION FROM TAXATION

Approved air pollution treatment facilities shall be exempted from real and personal property taxation in the same manner provided tax exemption of water treatment facilities under the provisions of section 3802 of Title 32.

(1967, No. 310 (Adj. Sess.), § 19.)

§ 571. Repealed. 1989, No. 98, § 4(b)

§ 572. EXEMPTION; STEAM LOCOMOTIVES AND ENGINES

The provisions of this chapter shall not apply to any steam locomotives, engines and rolling stock used in connection with the operation of a railroad within the state.

(Added 1971, No. 174 (Adj. Sess.), eff. March 28, 1972.)

§ 573. MOTOR VEHICLE AIR CONDITIONING

(a) After January 1, 1991, no person, for compensation, may perform service on motor vehicle air conditioners, unless that person uses equipment that is certified by the Underwriters Laboratories, or an institution determined by the secretary to be comparable, as meeting the Society of Automotive Engineers standard applicable to equipment for the extraction and reclamation of refrigerant from motor vehicle air conditioners.

(b) The secretary, by rule, shall establish a phased schedule for the acquisition of that equipment by establishments that repair motor vehicles, requiring early acquisition by high volume establishments and subsequent acquisition by lower volume establishments, providing that all establishments that wish to continue to service motor vehicle air conditioning shall have that equipment in use by January 1, 1991. The secretary, by rule, shall require these establishments to document motor vehicles repaired and chlorofluorocarbons (CFC's) purchased.

(c) After October 1, 1989, no person shall sell any CFC coolant in containers smaller than 15 pounds, unless it bears a warning label indicating the product's danger to ozone in the stratosphere. After January 1, 1991, no person shall sell or offer for sale:

(1) CFC coolant, suitable for use in motor vehicle air conditioners, for noncommercial or nonindustrial usage; or
(2) CFC coolant, suitable for use in motor vehicle air conditioners, in containers smaller than 15 pounds.

(d) No motor vehicle with a model year of 1995 or later may be registered in the state or sold to a consumer or dealer in the state, if it contains air conditioning that uses CFC's. No new motor vehicle may be sold or offered for retail sale in the state, if it contains air conditioning that uses CFC's unless it bears an 8 inch, by 11 inch placard attached to a passenger window, that reads as follows: "AIR CONDITIONING IN THIS VEHICLE CONTAINS CHLOROFLUOROCARBONS (CFC'S). CFC'S DEPLETE THE EARTH'S PROTECTIVE OZONE LAYER, CAUSING SKIN CANCER AND ENVIRONMENTAL DAMAGE."

(e) As used in this section, "motor vehicle" shall have the same meaning as defined in section 4 of Title 23.

(f) The secretary, by January 15, 1992, shall report to the general assembly with regard to the condition of the stratospheric ozone layer and the latest information as to the causes of that condition. The report also shall address the progress being made by manufacturers of motor vehicles that are commonly sold or registered in this state in developing and completing production of motor vehicles that have air conditioning that use refrigerants other than CFC's. This report shall include any appropriate recommendations.

(Added 1989, No. 59, § 1; amended 1991, No. 46, § 1.)

§ 574. REGULATION OF OZONE-DEPLETING PRODUCTS

(a) After January 1, 1990, no person shall sell or offer to sell fire extinguishers for noncommercial or nonindustrial usage, if those fire extinguishers contain halons or other ozone-depleting substances as may be identified by rule of the secretary; sales to fire departments, for their own use, shall not be prohibited.

(b) After January 1, 1990, no person shall sell or offer to sell:

(1) CFC cleaning sprays for noncommercial or nonindustrial usage in cleaning electronic and photographic equipment,
(2) CFC propelled plastic party streamers, or
(3) CFC noise horns.

(c) The secretary, by rule adopted no earlier than March 1, 1990, may require the usage of equipment that meets standards established by the Underwriters Laboratories, or an institution determined by the secretary to be comparable, for recovery and recycling of CFC coolant during the servicing of building air conditioning and of large refrigeration units, if the secretary finds that equipment to be portable and suitable for those purposes.

(d) By January 15, 1990, the secretary shall report to the natural resources and energy committees of the general assembly with the following:

(1) an analysis of the uses within the state of ozone-depleting chemicals,
(2) the advantages and disadvantages of alternatives to those chemicals (both in terms of impacts on the ozone and in terms of other health and environmental impacts),
(3) opportunities for recovery and recycling of these chemicals,
(4) any rules proposed under subsection (c) of this section, and
(5) any appropriate recommendations for action by the state.

(e) The secretary, by January 15, 1991, shall report to the natural resources and energy committees of the general assembly with recommendations for the systematic retrieval, storage and appropriate reuse of CFC's from refrigerators, air conditioners, and motor vehicles that face immediate disposal. This report shall consider, but shall not be limited to considering, regional CFC removal centers, circuit riding CFC removal equipment, or other appropriate procedures or equipment.

(f) After January 1, 1993, no person shall sell or offer to sell any aerosol-propelled consumer product, if it contains hydro=-chloro=-fluoro=-carbons (HCFC's). The secretary, on application, may postpone the effect of the prohibition established under this subsection, on a case-by-case basis, upon finding that the product is a health, safety-related, or industrial product, for which acceptable alternatives are not available. Any postponement granted under this subsection shall be granted for a specified period of time, not to exceed one year. Extensions granted may be renewed, if appropriate.

(g) After January 1, 1993, no disposal facility or transfer station may dispose of a residential, institutional, commercial, or industrial refrigerator, freezer, refrigerator-freezer, air conditioner or other cooling device or machine that uses CFC's, without assuring the item in question is properly drained of CFC's, according to procedures established by rule of the secretary.

(h) After January 1, 1993, no person shall sell or offer to sell cleaning liquid for the heads of videotape recorders, receivers and other related machines, if that liquid contains ozone-depleting chemicals.

(i)(1) The secretary, by rule, shall provide for the reclamation of CFC's recovered under the provisions of this section and section 573 of this title. The rules may provide standards for reclamation equipment and equipment operators, may allow reclamation through a central facility or by the establishment of on-site reclamation capabilities, may allow reclamation by the private sector, the municipalities or solid waste management districts, and may establish state-operated reclamation efforts.

(2) Costs of CFC reclamation under this subsection shall be borne by the state.

(Added 1989, No. 59, § 1; amended 1991, No. 266 (Adj. Sess.), §§ 1, 4.)

§ 574a. OZONE-DEPLETING CHEMICALS IN INDUSTRY

(a) By July 1, 1993, any person who uses an ozone-depleting chemical as part of a manufacturing process (excluding any associated refrigeration or air conditioning) shall notify the secretary of the person's plans for eliminating the use of ozone-depleting chemicals through changes in production methods or processes, through the use of environmentally benign substitute chemicals, or through other methods acceptable to the secretary, which shall:

(1) identify the alternatives considered, the alternative selected, and the basis for the selection;

(2) identify any discharges to the air and other media associated with the alternative selected;

(3) include interim measures, designed to minimize the release of the ozone-depleting chemicals to the environment until use of the ozone depleter ceases, or as expeditiously as practicable, but in no event later than July 1, 1995.

(b) Any emissions which may be associated with the alternative selected shall be in compliance with all other provisions of this chapter and rules adopted pursuant to this chapter.

(c) After July 1, 1995, no person shall use primary ozone-depleting chemicals, including those listed in subdivision 552(8)(A) of this title, as part of a manufacturing process, excluding any associated refrigeration and air conditioning.

(d) The secretary, upon application by any person subject to this section, may extend the date provided in subdivision (a)(3) of this section, on a case-by-case basis, upon finding that acceptable methods for eliminating ozone-depleting chemicals are not available.

(1) An extension granted under this subsection shall be granted for a specified period of time, not to exceed one year. Extensions granted may be renewed, if appropriate.

(2) The secretary may impose interim requirements to limit the emissions of ozone-depleting chemicals as a condition of any extension granted pursuant to this subsection.

(Added 1991, No. 266 (Adj. Sess.), § 2.)

§ 575. HAZARDOUS AIR CONTAMINANT MONITORING PROGRAM

The secretary shall establish a hazardous air contaminant monitoring program. The goals of the program shall be to:

(1) measure the presence of hazardous air contaminants in ambient air;
(2) identify sources of hazardous air contaminants;
(3) asses human health and ecological risk to focus studies on those air contaminants which pose the greatest risk;
(4) gather sufficient data to allow the secretary to establish appropriately protective standards; and
(5) ensure adequate data are collected to support the state's operating permit program.

(Added 1993, No. 92, § 15.)

§ 576. SMALL EQUIPMENT FOR BURNING WASTE OIL

Effective July 1, 1997, the burning of waste oil in small fuel burning equipment described as "pot burners" or "vaporizing" burners shall be prohibited, as shall the retail sale of these burners.

(Added 1993, No. 219 (Adj. Sess.), § 2.)

§ 577. Prohibition on addition of gasoline ethers to fuel products

(a) Effective January 1, 2007, no person shall knowingly sell at retail in this state, sell for use in this state, or store in an underground or aboveground storage tank in this state any fuel product that contains a gasoline ether in a quantity greater than one-half of one percent per volume unless authorized under subsection (c) of this section. Nothing in this subsection shall be interpreted to prohibit the transshipment of a fuel product containing a gasoline ether in a quantity greater than one-half of one percent per volume through the state for disposition outside the state. Transshipment does not include the storage of a fuel product coincident to shipment.
(b) As used in this section:
(1) "Ether" means an organic compound formed by the treatment of an alcohol with a dehydrating agent resulting in two organic radicals joined by an oxygen atom.
(2) "Fuel product" means gasoline, reformulated gasoline, benzene, benzol, diesel fuel, kerosene, or any other volatile and inflammable liquid that is produced, compounded, offered for sale, or used to generate power in an internal combustion engine.
(3) "Gasoline ether" means any ether added to a fuel product, including methyl tertiary butyl ether (MTBE), tertiary amyl methyl ether (TAME), di-isopropyl ether (DIPE), and ethyl butyl ether (ETBE). "Gasoline ether" shall not include prepackaged goods intended for retail use, including starting fluid and octane booster.
(4) "Motor vehicle" means all vehicles propelled or drawn by power other than muscular power, except farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, all-terrain vehicles, tracked vehicles, or electric personal assistive mobility devices.
(5) "Race" means a race or contest on an oval track permitted under 26 V.S.A. § 4802 involving a motor vehicle at which prizes or other consideration is awarded to participants or admission is

charged to spectators. However, this subdivision shall not apply to sports car events as that term is defined in 26 V.S.A. § 4801.
(c) A fuel product used by a motor vehicle in a race may contain a gasoline ether and may be sold at retail or sold at wholesale for use in a race in the state, provided that it is sold in prepackaged drums, pails, or containers.

(Added 2005, No. 26, § 2; amended 2007, No. 55, § 1, eff. May 29, 2007.)

§ 578. Greenhouse gas reduction goals

(a) General goal of greenhouse gas reduction. It is the goal of the state to reduce emissions of greenhouse gases from within the geographical boundaries of the state and those emissions outside the boundaries of the state that are caused by the use of energy in Vermont in order to make an appropriate contribution to achieving the regional goals of reducing emissions of greenhouse gases from the 1990 baseline by:
(1) 25 percent by January 1, 2012;
(2) 50 percent by January 1, 2028;
(3) if practicable using reasonable efforts, 75 percent by January 1, 2050.
(b) Vermont climate collaborative. The secretary will participate in the Vermont climate collaborative, a collaboration between state government and Vermont's higher education, business, agricultural, labor, and environmental communities. Wherever possible, members of the collaborative shall be included among the membership of the program development working groups established by the climate change oversight committee created under this act. State entities shall cooperate with the climate change oversight committee in pursuing the priorities identified by the committee. The secretary shall notify the general public that the collaborative is developing greenhouse gas reduction programs and shall provide meaningful opportunity for public comment on program development. Programs shall be developed in a manner that implements state energy policy, as specified in 30 V.S.A. Â§ 202a.
(c) Implementation of state programs to reduce greenhouse gas emissions. In order to facilitate the stateâ€™s compliance with the goals established in this section, all state agencies shall consider, whenever practicable, any increase or decrease in greenhouse gas emissions in their decision-making procedures with respect to the purchase and use of equipment and goods; the siting, construction, and maintenance of buildings; the assignment of personnel; and the planning, design and operation of programs, services and infrastructure.
(d) Advocacy for cap and trade program for greenhouse gases, including those caused by transportation, heating, cooling, and ventilation. In order to increase the likelihood of the state meeting the goals established under this section, the public service board, the secretary of natural resources, and the commissioner of public service shall advocate before appropriate regional or national entities and working groups in favor of the establishment of a regional or national cap and trade program for greenhouse gas emissions, including those caused by transportation, heating, cooling, and ventilation. This may take the form of an expansion of the existing regional greenhouse gas initiative (RGGI), or it may entail the creation of an entirely new and separate regional or national cap and trade initiative that includes a 100 percent consumer allocation system.

(Added 2005, No. 168 (Adj. Sess.), § 1; amended 2007, No. 209 (Adj. Sess.), § 3a.)

§ 579. VEHICLE EMISSIONS LABELING PROGRAM FOR NEW MOTOR VEHICLES

(a) The secretary of natural resources, in consultation with the commissioner of motor vehicles, shall establish, by rule, a vehicle emissions labeling program for new motor vehicles sold or leased in the state with a model year of 2010 or later. The rules adopted under this section shall require automobile manufacturers to install the labels.

(b) Vehicle emissions labels under this program shall include the vehicle’s emissions score. The label required by subsection (a) of this section and the vehicle score included in the label shall be consistent with the labels and information required by other states, including the California motor vehicle greenhouse gas and smog index label and any revisions thereto. A

label that complies with the requirements of the California vehicle labeling program shall be deemed to meet the requirements of this section and the rules adopted thereunder for the content of labels.

(c) The vehicle emissions label shall be affixed to the vehicle in a clearly visible location, as set forth by the secretary of natural resources in rule.

(d) On or after the effective date of the rules adopted under subsection (a) of this section, no new motor vehicle shall be sold or leased in the state unless a vehicle emissions label that meets the requirements of this section and the rules adopted thereunder is affixed to the vehicle except in the case of a trade of a new motor vehicle by a Vermont dealer, as that term is defined in 23 V.S.A. § 4(8), with a dealer from another state that does not have a similar labeling law, provided that the motor vehicle involved in the trade is sold within 30 days of the trade.

(e) As used in this section, “motor vehicle” means all passenger cars, light duty trucks with a gross vehicle weight of 8500 pounds or less, and medium duty passenger vehicles with a gross vehicle weight of less than 10,000 pounds that are designed primarily for the transportation of persons.

(Added 2007, No. 55, § 2, eff. May 29, 2007.)

§ 580. 25 by 25 state goal

(a) It is a goal of the state, by the year 2025, to produce 25 percent of the energy consumed within the state through the use of renewable energy sources, particularly from Vermont's farms and forests.
(b) By no later than January 15, 2009, the secretary of agriculture, food and markets, in consultation with the commissioner of public service and the commissioner of forests, parks and recreation, shall present to the committees on agriculture and natural resources and energy of the general assembly a plan for attaining this goal. Plan updates shall be presented no less frequently than every three years thereafter, and a progress report shall be due annually on January 15.
(c) By no later than January 15, 2009, the department of public service shall present to the legislative committees on natural resources and energy an updated comprehensive energy plan which shall give due consideration to the public engagement process required under 30 V.S.A. § 254 and under Sec. 2 of No. 208 of the Acts of the 2005 Adj. Sess. (2006). By that time, the department of public service shall incorporate plans adopted under this section into the state comprehensive energy plan adopted under 30 V.S.A. § 202b.

(Added 2007, No. 92 (Adj. Sess.), § 5.)

§ 581. Building efficiency goals

It shall be goals of the State:
(1) To improve substantially the energy fitness of at least 20 percent of the State's housing stock by 2017 (more than 60,000 housing units), and 25 percent of the State's housing stock by 2020 (approximately 80,000 housing units).
(2) To reduce annual fuel needs and fuel bills by an average of 25 percent in the housing units served.
(3) To reduce total fossil fuel consumption across all buildings by an additional one-half percent each year, leading to a total reduction of six percent annually by 2017 and 10 percent annually by 2025.

(4) To save Vermont families and businesses a total of $1.5 billion on their fuel bills over the lifetimes of the improvements and measures installed between 2008 and 2017.
(5) To increase weatherization services to low income Vermonters by expanding the number of units weatherized, or the scope of services provided, or both, as revenue becomes available in the Home Weatherization Assistance Fund.

(Added 2007, No. 92 (Adj. Sess.), § 6; amended 2013, No. 50, § E.324.3.)

§ 582. Greenhouse gas inventories; registry

(a) Inventory and forecasting. The Secretary shall work, in conjunction with other states or a regional consortium, to establish a periodic and consistent inventory of greenhouse gas emissions. The Secretary shall publish a Vermont Greenhouse Gas Emission Inventory and Forecast by no later than June 1, 2010, and updates shall be published annually until 2028, until a regional or national inventory and registry program is established in which Vermont participates, or until the federal National Emissions Inventory includes mandatory greenhouse gas reporting.
(b) Inventory updates. To develop the Inventory under this section, the Secretary, in coordination with the Secretaries of Administration, of Transportation, of Agriculture, Food and Markets, and of Commerce and Community Development, and the Commissioner of Public Service, shall aggregate all existing statewide data on greenhouse gas emissions currently reported to state or federal entities, existing statewide data on greenhouse gas sinks, and otherwise publicly available data. Greenhouse gas emissions data that is more than 36 months old shall be updated either by statistical methods or seeking updated information from the reporting agency or department. The information shall be standardized to reflect the emissions in tons per CO2 equivalent, shall be set out in the inventory by sources or sectors such as agriculture, manufacturing, automobile emissions, heating, and electricity production, shall be compatible with the inventory included with the Governor's Commission on Climate Change final report and shall include, the following sources:
(1) information collected for reporting in the National Emissions Inventory, which includes air toxics, criteria pollutants, mobile sources, point sources, and area sources;
(2) in-state electricity production using RGGI and state permit information;
(3) vehicle miles travelled and vehicle registration data; and
(4) agricultural activities, including livestock and crop practices.
(c) Forecast. The Secretary shall use best efforts to forecast statewide emissions for a five- and ten-year period based on the inventory data and other publicly available information.
(d) Registry. The Secretary shall work, in conjunction with other states or a regional consortium, to establish a regional or national greenhouse gas registry.
(1) Any registry in which Vermont participates shall be designed to apply to the entire state and to as large a geographic area beyond State boundaries as is possible.
(2) It shall accommodate as broad an array of sectors, sources, facilities, and approaches as is possible, and shall allow sources to start as far back in time as is permitted by good data, affirmed by third-party verification.
(e) Rules. The Secretary may adopt rules to implement the provisions of this section and shall review existing and proposed international, federal, and State greenhouse gas emission reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this section and other programs, and to streamline reporting requirements on greenhouse gas emission sources. Except as provided in subsection (g) of this section, nothing in this section shall limit a state agency from adopting any rule within its authority.

(f) Participation by government subdivisions. The State and its municipalities may participate in the inventory for purposes of registering reductions associated with their programs, direct activities, or efforts, including the registration of emission reductions associated with the stationary and mobile sources they own, lease, or operate.
(g) Greenhouse gas accounting. In consultation with the Department of Public Service created under 30 V.S.A. § 1, the Secretary shall research and adopt by rule greenhouse gas accounting protocols that achieve transparent and accurate life cycle accounting of greenhouse gas emissions, including emissions of such gases from the use of fossil fuels and from renewable fuels such as biomass. On adoption, such protocols shall be the official protocols to be used by any agency or political subdivision of the State in accounting for greenhouse gas emissions.

(Added 2007, No. 209 (Adj. Sess.), § 4; amended 2011, No. 170 (Adj. Sess.), § 14.)

§ 583. Repeal of stage II vapor recovery requirements

(a) Effective January 1, 2013, all rules of the secretary pertaining to stage II vapor recovery controls at gasoline dispensing facilities are repealed. The secretary may not issue further rules requiring such controls. For purposes of this section, "stage II vapor recovery" means a system for gasoline vapor recovery of emissions from the fueling of motor vehicles as described in 42 U.S.C. § 7511a(b)(3).
(b) Prior to January 1, 2013, stage II vapor recovery rules shall not apply to:
(1) Any newly constructed gasoline dispensing facility that commences operation after May 1, 2009;
(2) Any existing gasoline dispensing facility that has an annual gasoline throughput of 400,000 gallons or more for the first time beginning with the 2009 calendar year;
(3) Any existing gasoline dispensing facility that, after May 1, 2009, commences excavation for the installation or repair of any below-ground component of the stage II vapor recovery system, including gasoline storage tanks, upon verification and approval by the secretary; or
(4) Any existing gasoline dispensing facility that, after May 1, 2009, replaces all of its existing gasoline dispensers with gasoline dispensers that support triple data encryption standard (TDES) usage or replaces one or more of its gasoline dispensers pursuant to a plan to achieve full TDES compliance, upon verification and approval by the secretary.
(c) Within two years of January 1, 2013, or of the secretary's verification and approval that such stage II vapor recovery rules do not apply to a gasoline dispensing facility pursuant to subdivision (b)(3) or (4) of this section, whichever is earlier, each gasoline dispensing facility shall decommission its stage II vapor recovery systems, including below-ground components, pursuant to methods approved by the secretary.

(Added 2009, No. 22, § 9(b); amended 2009, No. 123 (Adj. Sess.), § 43.)

§ 584. Inefficient outdoor wood-fired boiler change-out program; retirement

(a) At the earliest feasible date, the secretary shall create and put into effect a change-out program within the air pollution control division of the department of environmental conservation to purchase the retirement of inefficient, high emission outdoor wood-fired boilers (OWB) that will be replaced with OWBs or other heating appliances with substantially lower emissions and higher fuel efficiency.
(b) The secretary shall fund this program using at least $500,000.00 of the funds available to the state of Vermont for environmental mitigation projects under the consent decree approved on or

about October 9, 2007 in the case of United States, et al. v. American Elec. Power Service Corp., et al.,
consent decree). The secretary may add to this funding such additional moneys as may be appropriated to the program authorized under this section or otherwise may be available by grant, contribution, or donation.
(c) The secretary shall take all steps necessary to secure use of the funds from the AEP consent decree in the manner described in subsection (a) of this section.
(d)(1) To be eligible for the program under this section, an OWB shall be one that is not certified under the air pollution control regulations as meeting either the Phase I emission limit for particulate matter of 0.44 pounds per million British thermal units (BTUs) of heat input or the Phase II emission limit for particulate matter of 0.32 pounds per million BTUs of heat output.
(2) The secretary may develop program eligibility criteria that are in addition to the criteria of subdivision (1) of this subsection. Such additional criteria may allow an OWB to be eligible for the program under this section even if the OWB does not meet the requirements of subdivision (1) of this subsection. In developing these additional criteria, the secretary shall consult with affected persons and entities such as the American Lung Association.
(e) An eligible OWB that is accepted into the change-out program under this section shall be:
(1) Replaced with an OWB that is certified under the air pollution control regulations as a Phase II OWB with a particulate matter emission rate of no more than 0.32 pounds per million BTUs of heat output or another heating appliance that the secretary determines has an equivalent or more stringent emission rate; and
(2) Retired within a specified period not to exceed six months after acceptance into the program.
(f) In implementing the program required by this section, the secretary:
(1) Shall give priority to replacing eligible OWBs that have resulted in complaints regarding emissions, including particulate matter or smoke, that the agency has determined are valid, and have the highest emission rates, cause nuisance, or are within 200 feet of a residence, school, or health care facility.
(2) May allow replacement of an eligible OWB that is less than the required setback distance from a residence, school, or health care facility that is neither served by the OWB nor owned by the owner or lessee of the OWB with an OWB or heating appliance that is also less that the required setback distance from a residence, school, or health care facility, unless such location of the replacement OWB or heating appliance will cause a nuisance or will not comply with all applicable local ordinances and bylaws. For the purposes of this subdivision (2), "required setback distance" means the setback distance applicable to the OWB that is required by the air pollution control regulations.
(3) May require that an eligible OWB be replaced with a heating appliance that is not an OWB if, based on the secretary's consideration of area topography, air flows, site conditions, and other relevant factors, the secretary determines that the replacement OWB would cause nuisance.
(4) To the extent practical, should provide over time for decreasing emission rates and increasing fuel efficiency requirements for replacement OWBs under this program as new technology for boilers becomes commercially available.
(g) Any OWB in the state that is not certified under the air pollution control regulations to meet the Phase I, Phase II, or a more stringent emission limit shall be retired on or before December 31, 2012, if the OWB is located within 200 feet of a residence, school, or health care facility that is neither served by the OWB nor owned by the owner or lessee of the OWB or has resulted or results in a complaint regarding emissions, including particulate matter or smoke, that the agency has determined is valid.
(h) For the purpose of this section:
(1) "Outdoor wood-fired boiler" or "OWB" means a fuel-burning device designed to burn primarily wood that the manufacturer specifies should or may be installed outdoors or in structures not normally occupied by humans, such as attached or detached garages or sheds,

and that heats spaces or water by the distribution through pipes of a fluid heated in the device, typically water or a mixture of water and antifreeze. In addition, this term also means any wood-fired boiler that is actually installed outdoors or in structures not normally occupied by humans, such as attached or detached garages or sheds, regardless of whether such use has been specified by the manufacturer.
(2) "Retire" means to remove an OWB permanently from service, disassemble it into its component parts, and either recycle those parts or dispose of them in accordance with applicable law.
(i) For the purpose of determinations under subdivisions (f)(1) (priority for change-out), (2) (installation of replacement OWB closer than the setback distance) and (3) (non-OWB replacement) of this section, "nuisance" means interference with the ordinary use or enjoyment of property caused by particulate matter, smoke, or other emissions of an OWB that a reasonable person would find disturbing, annoying, or physically uncomfortable. Precedence in time and balancing of harm shall be irrelevant to such determinations. This section shall not affect the burden or elements of proof with respect to a claim of nuisance caused by an OWB brought in a civil court under common law.
(j) The secretary may adopt rules to implement this section.

(Added 2009, No. 94 (Adj. Sess.), § 2, eff. May 7, 2010.)

§ 585. Heating oil content; sulfur; biodiesel

(a) Definitions. In this section:
(1) "Heating oil" means No. 2 distillate that meets the specifications or quality certification standard for use in residential, commercial, or industrial heating applications established by the American Society for Testing and Materials (ASTM).
(2) "Biodiesel" means monoalkyl esters derived from plant or animal matter which meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. § 7545), and the requirements of ASTM D6751-10.
(b) Sulfur content. Unless a requirement of this subsection is waived pursuant to subsection (e) of this section:
(1) On or before July 1, 2014, all heating oil sold within the State for residential, commercial, or industrial uses, including space and water heating, shall have a sulfur content of 500 parts per million or less.
(2) On or before July 1, 2018, all heating oil sold within the State for residential, commercial, or industrial uses, including space and water heating, shall have a sulfur content of 15 parts per million or less.
Subsection (c) effective date delayed; see note set out below.
(c) Biodiesel content. Unless a requirement of this subsection is waived pursuant to subsection (e) of this section, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, by volume shall:
(1) On or before July 1, 2012, contain at least three percent biodiesel.
(2) On or before July 1, 2015, contain at least five percent biodiesel.
(3) On or before July 1, 2016, contain at least seven percent biodiesel.
(d) Blending; certification. In the case of biodiesel and heating oil that has been blended by a dealer or seller of heating oil, the Secretary may allow the dealer or seller to demonstrate compliance with this section by providing documentation that the content of the blended fuel in each delivery load meets the requirements of this section.

(e) Temporary suspension. The Governor, by executive order, may temporarily suspend the implementation and enforcement of subsection (b) or (c) of this section if the Governor determines, after consulting with the Secretary and the Commissioner of Public Service, that meeting the requirements is not feasible due to an inadequate supply of the required fuel.
(f) Rules. The Secretary may adopt rules to implement this section. This section does not limit any authority of the Secretary to control the sulfur or biodiesel content of distillate or residual oils that do not constitute heating oil as defined in this section.

(Added 2011, No. 47, § 19.)

§ 6615b. Corrective action procedures.

Any person who is determined to be liable for the release or threatened release of a hazardous material as established in section 6615 of this title shall take all of the following actions to mitigate the effects of the release:

(1) Submit for approval by the secretary a work plan for an investigation of the contaminated site. This shall be submitted within thirty (30) days from either the date of the discharge or release or the date that the release was discovered if the date of the discharge or release is not known, or within a period of time established by an alternative schedule approved by the secretary. The site investigation shall define the nature, degree and extent of the contamination, and shall assess potential impacts on human health and the environment;

(2) Perform the site investigation within ninety (90) days of receiving written approval of the work plan by the secretary, or within a period of time established by an alternative schedule approved by the secretary. A report detailing the findings of this work shall be sent to the Secretary for review;

(3) Submit a corrective action plan, within thirty (30) days from the date of final acceptance of the site investigation report by the secretary, or within a period of time established by an alternative schedule approved by the secretary;

(4) Implement the corrective action plan within ninety (90) days upon approval of the plan by the secretary, or within a period of time established by an alternative schedule approved by the secretary. The corrective action activity shall be continued until the contamination is remediated to levels approved by the secretary. The secretary may allow for the remediation of a site contaminated with a hazardous material without requiring certification and permitting under sections 556, 6605 and 6606 of this title, provided such activity will not, in the secretary's opinion, adversely affect either public health and safety or the environment, and provided such activity is conducted in accordance with standards developed by the secretary; and

(5) Submit to the secretary all investigative, corrective action and monitoring reports, including all analytical results related to subdivisions (3)-(5) of this subsection, as they become available.

(Added 1997, No. 132 (Adj. Sess.), § 11, eff. April 23, 1998.)

[Section 1222a effective July 1, 2007; see main volume for information regarding repeal of former 1222a.]

Article 1. General Requirements
§ 1222a. Emissions of diesel-powered commercial vehicles

(a) Except for voluntary exhaust-smoke emission testing, a vehicle may be stopped and an inspection performed under this section only if a law enforcement officer observes an apparent violation of the exhaust-smoke emission standard. If the equipment for smoke testing is not available, a law enforcement officer may require the operator or the owner to submit the vehicle for an emission test at a reasonably convenient time and place. Failure to submit to the test shall be conclusive evidence of the vehicle's noncompliance with the exhaust-smoke emission standard. Any test administered under this section and any notice of violation issued shall be done by a sworn law enforcement officer trained and certified by the department of motor vehicles. For purposes of this section:

(1) "Commercial motor vehicle" is defined under subdivision 4103(4) of this title.

(2) "Law enforcement officer" means an officer of the department of motor vehicles trained and certified by the department of motor vehicles to conduct exhaust-smoke emission inspections.

(b) No diesel-powered commercial motor vehicle shall be operated on the highways of this state unless the vehicle complies with the exhaust-smoke emission standard and the rules adopted by the commissioner of motor vehicles. Any person who owns or operates such a vehicle while it is operated in violation of the provisions of this section or the rules adopted by the commissioner shall be fined:

(1) $200.00 for a first violation per vehicle, except that a person shall not be fined if, within 45 days from the date of the emission inspection, the defect is repaired and notification of the repair is provided to the department of motor vehicles or the vehicle is taken out of service;

(2) $200.00 for a second violation by the same vehicle within a two-year period if the first violation was repaired within 45 days from the date of the emission inspection, except that a person shall not be fined if the second violation occurs within 60 days from the date of repair of the first violation. For purposes of this subdivision, the "date of repair" shall be the date indicated in the notification of repair submitted to the department of motor vehicles under subdivision (b)(1) of this subsection;

(3) $400.00 for a second violation by the same vehicle within a two-year period if the first violation was not repaired within 45 days from the date of the emission inspection;

(4) $ 400.00 for a third or subsequent violation committed by the same vehicle within a two-year period if the first violation was repaired within 45 days from the date of the emission inspection; and

(5) $800.00 for a third or subsequent violation committed by the same vehicle within a two-year period if the first violation was not repaired within 45 days from the date of the emission inspection.

(c) The commissioner shall establish by rule a process by which the owner of a vehicle that has been taken out of service under this section and that is currently in violation of the exhaust-smoke emission standard shall, prior to sale or transfer of the vehicle, notify the purchaser or transferee that the vehicle does not comply with the exhaust-smoke emission standard.

(d) All fines generated from the violation of this section shall be deposited in the transportation fund.

(Added 2005, No. 195 (Adj. Sess.), § 2, eff. July 1, 2007.)

Article 1. General Requirements
§ 1229. Rules

(a) The commissioner may adopt rules necessary to implement the provisions of sections 1222, 1224, 1227, and 1228 of this title, relating to inspections and certification of inspection mechanics.

(b) In consultation with the secretary of natural resources or the secretary's designee, the commissioner shall adopt rules, pursuant to the provisions in 3 V.S.A. chapter 25, to establish a standard of exhaust-smoke emission for all diesel-powered commercial motor vehicles operated on the highways of this state. In establishing this standard, the commissioner shall review standards in effect in other states and shall endeavor to maintain consistency with those standards. The rules adopted shall recognize different types and ages of vehicles and comprise standards which shall, at least in part, be based on the age of the vehicle. The standards shall be reviewed by the commissioner periodically and may be revised in consultation with the secretary of natural resources or the secretary's designee, as the commissioner deems appropriate. Additionally, the commissioner, in consultation with the secretary of natural resources or the secretary's designee, shall adopt rules which select a method or methods for testing the exhaust emissions of diesel-powered commercial motor vehicles and which implement section 1222a of this title. The method selected shall be one that is designed to be performed without unreasonable delay for the vehicle being tested. The rules shall include a process by which the owner of a commercial motor vehicle may arrange with the department of motor vehicles for the voluntary exhaust-smoke emission testing of a vehicle. For the purposes of this section, "commercial motor vehicle" is defined under subdivision 4103(4) of this title.

(Added 1997, No. 155 (Adj. Sess.), § 66l; amended 2005, No. 195 (Adj. Sess.), § 1, eff. May 26, 2006.)

Article 3. School Buses
§ 1282. Operator, equipment and inspection

(a) Before a person may assume the duty of transporting school pupils in either a Type I or Type II school bus, he or she shall as a minimum:
(1) For Type I, have a valid State of Vermont commercial driver license with a passenger endorsement and a school bus driver's endorsement or, for Type II, have a valid State of

Vermont license with a school bus driver's endorsement or have a license from another jurisdiction valid for the class or type of vehicle to be driven;
(2) Furnish the Department of Motor Vehicles or in the case of a person licensed in another jurisdiction furnish his or her employer a certificate signed by a licensed physician, or a certified physician assistant, or a nurse practitioner in accordance with written protocols, that he or she is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties. Any newly diagnosed diabetic or established diabetic must be stabilized and must be certified by his or her personal physician that he or she has not had a hypoglycemic reaction (loss of consciousness or near loss of consciousness) for the last two years or since his or her last physical, whichever is longer. Any diabetic must be recertified every six months by his or her personal physician who must state that the patient has not had a hypoglycemic reaction during that time;
(3) Have completed training in school bus operation, including evacuation and emergency procedures, as the Commissioner deems necessary;
(4) Be licensed for Type I or Type II or both, Type I being an automatic qualification for a Type II operator;
(5) Furnish to his or her employer prior to the first date of employment as a school bus driver, a copy of his or her three-year operating record.
(b) A school bus shall not be operated in the transportation of children to and from school unless and until it is inspected at an inspection station designated as such by the Motor Vehicle Department. The inspection shall thoroughly cover mechanical conditions, standard equipment, extra equipment, and safety and comfort conditions all as provided in section 1281 of this title; and, if the inspected vehicle meets all of these requirements, the inspection station shall give the owner or operator of the inspected vehicle a signed certificate so stating. This certificate shall be shown as soon as possible by the owner or operator to a school director in the town in which this vehicle is to be operated, and shall thereafter be carried in some easily accessible place in the vehicle. Thereafter, so long as this bus remains in this service, it must be reinspected as provided in this section during each of the following periods: July-August, November-December, and February-March. School buses of the pleasure car type, if regularly used in this service, shall display signs required in subdivision 1281(9) of this title when transporting schoolchildren.
(c)(1) A school bus shall not regularly transport more passengers than seating space of 13 inches for each child will permit.
(2) Bus routing and seating plans shall be coordinated so as to eliminate standees when a school bus is in motion, and standees shall be permitted only in emergency situations.
(3) There shall be no auxiliary seating accommodations such as temporary or folding jump seats in school buses.
(d)(1) A person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall annually before the commencement of the school year furnish his or her employer, where he or she is employed as a school bus driver, the following:
(A) a certificate signed by a licensed physician, or a certified physician assistant or a nurse practitioner in accordance with written protocols, certifying that he or she is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties, and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and
(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the commissioner.
(e) In the event the school bus driver is subject to 49 C.F.R. part 391, subpart E, the provisions of those regulations rather than the standards of this section shall apply.
(f) Subject to State Board of Education rules, which may provide for limited idling, the operator of a school bus shall not idle the engine while waiting for children to board or to exit the vehicle at a school and shall not start the engine until ready to leave the school premises. The Board, in consultation with the Agency of Natural Resources, the Department of Health, and the Department of Motor Vehicles, shall adopt rules to implement this subsection. The rules shall set forth periods or circumstances that reasonably require the idling of the engine, including periods when it is necessary to operate defrosting, heating, or cooling equipment to ensure the health or safety of the driver or passengers or to operate auxiliary equipment; and periods when the engine is undergoing maintenance or inspection.

(Amended 1961, No. 137, § 2; 1971, No. 228 (Adj. Sess.), § 32; 1975, No. 149 (Adj. Sess.), §§ 6, 7; 1985, No. 119 (Adj. Sess.); 1987, No. 209 (Adj. Sess.), §§ 1, 2; 1989, No. 33, § 1; 1989, No. 127 (Adj. Sess.), § 5, eff. March 15, 1990; 1989, No. 239 (Adj. Sess.), §§ 4, 5; 2003, No. 160 (Adj. Sess.), § 39, eff. June 9, 2004; 2007, No. 48, § 1, eff. May 25, 2007.)

§ 255. Regional coordination to reduce greenhouse gases

(a) Legislative findings. The General Assembly finds:
(1) There is a growing scientific consensus that the increased anthropogenic emissions of greenhouse gases are enhancing the natural greenhouse effect, resulting in changes in the earth's climate.
(2) Climate change poses serious potential risks to human health and terrestrial and aquatic ecosystems globally, regionally, and in Vermont.
(3) A carbon constraint on fossil fuel-fired electricity generation and the development of a CO2 allowance trading mechanism will create a strong incentive for the creation and deployment of more efficient fuel-burning technologies, renewable resources, and end-use efficiency resources and will lead to lower dependence on imported fossil fuels.
(4) Absent federal action, a number of states are taking actions to work regionally to reduce power sector carbon emissions.
(5) Vermont has joined with at least six other states to design the Regional Greenhouse Gas Initiative (RGGI), and, in 2005, Vermont's Governor signed a memorandum of understanding (MOU) signaling Vermont's intention to develop rules and programs to participate in RGGI.
(6) It is crucial to manage Vermont's implementation of RGGI and its consumption of fossil fuels for residential and commercial heating, and industrial processes, so as to maximize the State's contribution to lowering carbon emissions while:
(A) minimizing impacts on electric system reliability and unnecessary costs to Vermont energy consumers;
(B) minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes.
(7) The accelerated deployment of low-cost process, thermal, and electrical energy efficiency, the strategic use of low- and zero-carbon generation, and the selective use of switching fuel sources are the best means to achieve these goals.
(8) It is crucial that funds made available from operation of a regional carbon credits cap and trade system be devoted to the benefit of Vermont energy consumers through investments in a strategic portfolio of energy efficiency, weatherization, and low-carbon generation resources.
(b) Cap and trade program creation.
(1) The Agency of Natural Resources and the Public Service Board shall, through appropriate rules and orders, establish a carbon cap and trade program that will limit and then reduce the total carbon emissions released by major electric generating stations that provide electric power to Vermont utilities and end-use customers.
(2) Vermont rules and orders establishing a carbon cap and trade program shall be designed so as to permit the holders of carbon credits to trade them in a regional market proposed to be established through the RGGI.
(c) Allocation of tradable carbon credits.
(1) The Secretary of Natural Resources, by rule, shall establish a set of annual carbon budgets for emissions associated with the electric power sector in Vermont that are consistent with the 2005 RGGI MOU, including any amendments to that MOU and any reduced carbon cap resulting from a subsequent program review by RGGI, and that are on a reciprocal basis with the other states participating in the RGGI process.

(2) In order to provide the maximum long-term benefit to Vermont consumers, particularly benefits that will result from accelerated and sustained investments in energy efficiency and other low-cost, low-carbon power system, building envelope, and other investments, the public service board, by rule or order, shall establish a process to allocate 100 percent of the Vermont statewide budget of tradable power sector carbon credits to one or more trustees acting on behalf of consumers in accordance with the following principles. To the extent feasible, the allocation plan shall accomplish the following goals:
(A) minimize windfall financial gains to power generators as a result of the operation of the cap and trade program, considering both the costs that generators may incur to participate in the program and any power revenue increases they are likely to receive as a result of changes in regional power markets;
(B) employ an administrative structure that will enable program managers to perform any combination of holding, banking, and selling carbon credits in regional, national, and international carbon credit markets in a financially responsible and market-sensitive fashion, and provide funds to defray the reasonable costs of the program trustee or trustees and Vermont's pro-rata share of the costs of the RGGI regional organization;
(C) optimize the revenues received from the management and sale of carbon credits for the benefit of Vermont energy consumers and the Vermont economy;
(D) minimize any incentives from operation of the cap and trade program for Vermont utilities to increase the overall carbon emissions associated with serving their customers;
(E) build upon existing regulatory and administrative structures and programs that lower power and heating costs, improve efficiency, and lower the State's carbon profile while minimizing adverse impacts on electric system reliability and unnecessary costs to Vermont energy consumers, and minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes;
(F) ensure that carbon credits allocated under this program and revenues associated with their sale remain public assets managed for the benefit of the State's consumers, particularly benefits that will result from accelerated and sustained investments in energy efficiency and other low-cost, low-carbon power, or heating system or building envelope investments;
(G) where practicable, support efforts recommended by the Agency of Natural Resources or the Department of Public Service to stimulate or support investment in the development of innovative carbon emissions abatement technologies that have significant carbon reduction potential.
(d) Appointment of consumer trustees. The Public Service Board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. The net proceeds above costs from the sale of carbon credits shall be deposited into the Electric Efficiency Fund established under subdivision 209(d)(3) of this title. These funds shall be used by the entity or entities appointed under subdivision 209(d)(2)(B) of this title to help meet the building efficiency goals established under 10 V.S.A. § 581 by delivering heating and process-fuel energy efficiency services to Vermont consumers who use such fuel.
(e) Reports. By January 15 of each year, commencing in 2007, the Department of Public Service in consultation with the Agency of Natural Resources and the Public Service Board shall provide to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the House Committee on Commerce a report detailing the implementation and operation of RGGI and the revenues collected and the expenditures made

under this section, together with recommended principles to be followed in the allocation of funds.

(f) State action off-sets. The State's negotiators to RGGI shall advocate for and negotiate to adjust the rules of the program, as needed, so that greenhouse gas reductions resulting from State investments and other public investments and investments required by State law will not be prohibited from being eligible for off-sets under the program.

(Added 2005, No. 123 (Adj. Sess.), § 1; amended 2007, No. 92 (Adj. Sess.), § 18; 2007, No. 209 (Adj. Sess.), § 13b; 2009, No. 54, § 105, eff. June 1, 2009; 2009, No. 1 (Sp. Sess.), § E.235.2, eff. June 2, 2009; 2011, No. 47, § 20c, eff. May 25, 2011; 2013, No. 50, § E.700; 2013, No. 89, § 4.)

TITLE 32 Taxation and Finance
SUBTITLE 1 Finance
CHAPTER 9. APPROPRIATIONS

§ 701a. Capital construction bill

(a) When the capital budget has been submitted by the Governor to the General Assembly, it shall immediately be referred to the House Committee on Corrections and Institutions which shall proceed to consider the budget request in the context of the 10-year capital program plan also submitted by the Governor pursuant to sections 309 and 310 of this title. The Committee shall also propose to the General Assembly a prudent amount of total general obligation bonding for the following fiscal year, for support of the capital budget, in consideration of the recommendation of the Capital Debt Affordability Advisory Committee pursuant to subchapter 8 of chapter 13 of this title.
(b) As soon as possible, the Committee shall prepare a bill to be known as the "capital construction bill," which shall be introduced for action by the General Assembly.
(c) The spending authority authorized by a capital construction act shall carry forward until expended, unless otherwise provided. All unexpended funds remaining for projects authorized by capital construction acts enacted in a legislative session that was two or more years prior to the current legislative session shall be reported to the General Assembly and may be reallocated in future capital construction acts.
(d) On or before October 15, each entity to which spending authority has been authorized by a capital construction act enacted in a legislative session that was two or more years prior to the current legislative session shall submit to the Department of Buildings and General Services a report on the status of each authorized project with unexpended funds. The report shall follow the form provided by the Department of Buildings and General Services and shall include details regarding how much of the appropriation has been spent, how much of the appropriation is unencumbered, actual progress in meeting the goals of the project, and any impediments to completing the project on time and on budget. The Department may request additional or clarifying information regarding each project. On or before January 15, the Department shall present the information collected to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(Added 1989, No. 258 (Adj. Sess.), § 4; amended 2007, No. 200 (Adj. Sess.), § 36, eff. June 8, 2008; 2011, No. 104 (Adj. Sess.), § 33, eff. May 7, 2012; 2013, No. 51, § 36.)

§ 710. Payment of state agency fees.

(a) Notwithstanding any other provision of law, the agency of transportation, any cooperating municipalities, and their contractors or agents shall be exempt from the payment of fee charges for reviews, inspections, or nonoperating permits issued by the department of public safety, a district environmental commission, and the agency of natural resources for any projects undertaken by or for the agency and any cooperating municipalities for which all or a portion of the funds are authorized by a legislatively approved transportation construction, rehabilitation, or paving program within a general appropriation act introduced pursuant to section 701 of this title.

(b) Notwithstanding any other provision of law, no fees shall be charged for reviews, inspections, or nonoperating permits issued by the department of public safety, a district environmental commission, and the agency of natural resources for:

(1) Any project undertaken by the department of buildings and general services, the agency of natural resources or the agency of transportation which is authorized or funded in whole or in part by the capital construction act introduced pursuant to section 701a of this title.

(2) Any project undertaken by a municipality, which is funded in whole or in part by a grant or loan from the agency of natural resources or the agency of transportation financed by an appropriation of a capital construction act introduced pursuant to section 701a of this title. However, all such fees shall be paid for reviews, inspections or permits required by municipal solid waste facilities developed by a solid waste district which serves, or is expected to serve, in whole or in part, parties located outside its own district boundaries pursuant to chapter 159 of Title 10.

(Added 1993, No. 59, § 20, eff. June 3, 1993; amended 1993, No. 233 (Adj. Sess.), § 57, eff. June 21, 1994; 1995, No. 148 (Adj. Sess.), § 4(c)(1); 1999, No. 148 (Adj. Sess.), § 86, eff. May 24, 2000; 2003, No. 115 (Adj. Sess.), § 115, eff. Jan. 31, 2005; 2005, No. 103 (Adj. Sess.), § 2, eff. April 5, 2006.)