

The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

Title 10: Conservation And Development

Chapter 48: Groundwater Protection

Subchapter 1: Policy; Definitions

§ 1390. Policy

The General Assembly hereby finds and declares that:

(1) the State should adhere to the policy for management of groundwater of the State as set forth in section 1410 of this title;

(2) in recognition that the groundwater of Vermont is a precious, finite, and invaluable resource upon which there is an ever-increasing demand for present, new, and competing uses; and in further recognition that an adequate supply of groundwater for domestic, farming, dairy processing, and industrial uses is essential to the health, safety, and welfare of the people of Vermont, the withdrawal of groundwater of the State should be regulated in a manner that benefits the people of the State; is compatible with long-range water resource planning, proper management, and use of the water resources of Vermont; and is consistent with Vermont's policy of managing groundwater as a public resource for the benefit of all Vermonters;

(3) it is the policy of the State that the State shall protect its groundwater resources to maintain high-quality drinking water;

(4) it is the policy of the State that the groundwater resources of the State shall be managed to minimize the risks of groundwater quality deterioration by regulating human activities that present risks to the use of groundwater in the vicinities of such activities while balancing the State's groundwater policy with the need to maintain and promote a healthy and prosperous agricultural community; and

(5) it is the policy of the State that the groundwater resources of the State are held in trust for the public. The State shall manage its groundwater resources in accordance with the policy of this section, the requirements of subchapter 6 of this chapter, and section 1392 of this title for the benefit of citizens who hold and share rights in such waters. The designation of the groundwater resources of the State as a public trust resource shall not be construed to allow a new right of legal action by an individual other than the State of Vermont, except to remedy injury to a particularized interest related to water quantity protected under this subchapter. (Added 1985, No. 53, § 1; amended 2007, No. 199 (Adj. Sess.), § 1, eff. June 9, 2008.)

§ 1391. Definitions

As used in this chapter:

(1) "Abandoned well" means any well or hole whose original purpose and use has been permanently discontinued or that is in such a state of disrepair that the well or hole has the potential for transmitting contaminants into an aquifer or otherwise threatens the public health or safety.

(2) "Agency" means the Agency of Natural Resources.

(3) "Aquifer" means a water bearing stratum of permeable rock, sand, gravel, or other alluvial soils.

(4) "Beneficial uses" means those uses included in each groundwater class.

(5) "Commissioner" means the Commissioner of Environmental Conservation or the Commissioner's designated representative.

(6) "Department" means the Department of Environmental Conservation.

(7) "Groundwater" means water below the land surface, but does not include surface waters within the meaning of subdivision 1251(13) of this title.

(8) "Hole" means any excavation, deeper than 20 feet with at least one horizontal dimension less than five feet.

(9) "Public water supply" means a water supply system with 15 or more connections.

(10) "Secretary" means the Secretary of Natural Resources or the Secretary's designated representative.

(11) "Servicing" means developing of well yields, placing liners or seals, grouting, restricting the flow of flowing wells, repairing or closing wells, and installing or maintaining well pump systems. "Servicing" does not include work performed on monitoring wells.

(12) "Technical criteria" means the numerical parameters or scientific parameters that, when followed, will result in groundwater suitable for the uses defined in its class.

(13) "Well" means any hole deeper than 20 feet drilled, driven, or bored into the earth to locate, monitor, extract, or recharge groundwater or any hole deeper than 20 feet drilled, driven, or bored for the primary purpose of transferring heat to or from the earth's subsurface.

(14) "Well contractor" means any person who constructs or services wells. (Added 1985, No. 53, § 1; amended 1987, No. 76, § 18; 1989, No. 201 (Adj. Sess.), § 1; 2015, No. 97 (Adj. Sess.), § 21.)

Subchapter 2: General

§ 1392. Duties; powers of Secretary

(a) The Secretary shall develop a comprehensive groundwater management program to protect the quality of groundwater resources by:

(1) developing a strategy for the management and protection of the State's groundwater resources;

(2) continuing studies and investigations of groundwater in the State;

(3) cooperating with other government agencies in collecting and compiling data on the quantity and quality of groundwater and location of aquifers;

(4) identifying and mapping groundwater currently used as public water supply sources and groundwater determined by the Secretary as potential future public water supply sources;

(5) providing technical assistance to municipal officials and other public bodies in the development of regional or municipal plans or bylaws, the purpose of which is the protection of groundwater resources;

(6) classifying groundwater resources according to the provisions of this chapter and adopting technical criteria and standards for the management of activities that may pose a risk to their beneficial uses;

(7) integrating the groundwater management strategy with other regulatory programs administered by the Secretary;

(8) developing public information and education materials; and

(9) cooperating with federal agencies in the development of programs for protecting the quality and quantity of the groundwater resources.

(b) The Secretary is authorized to accept and administer grants for groundwater management purposes in accord with the administrative procedures of the State.

(c)(1) The Secretary shall establish a groundwater coordinating committee, with representation from the Division of Drinking Water and Groundwater Protection within the Department, the Division of Geology and Mineral Resources within the Department, the Agency of Agriculture, Food and Markets, and the Departments of Forests, Parks and Recreation and of Health to provide advice in the development of the program and its implementation, on issues concerning groundwater quality and quantity, and on groundwater issues relevant to well-drilling activities and the licensure of well drillers.

(2) In carrying out his or her duties under this subchapter, the Secretary shall give due consideration to the recommendations of the Groundwater Coordinating Committee.

(3) The Secretary may request representatives of other agencies and the private sector, including licensed well drillers, to serve on the Groundwater Coordinating Committee.

(d) The groundwater management strategy, including groundwater classification and associated technical criteria and standards, shall be adopted as a rule in accordance with the provisions of 3 V.S.A. chapter 25.

(e) [Repealed.] (Added 1985, No. 53, § 1; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 1995, No. 189 (Adj. Sess.), § 3; 2003, No. 115 (Adj. Sess.), § 32, eff. Jan. 31, 2005; 2017, No. 55, § 7, eff. June 2, 2017; 2018, No. 2 (Sp. Sess.), § 1.)

§ 1393. Coordination

Nothing in this subchapter is intended to interfere with authority granted other agencies of State government by statute. The Secretary will coordinate the development of the program with other State agencies as necessary. (Added 1985, No. 53, § 1.)

§ 1394. Classification of groundwater

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

(1) Class I. Suitable for public water supply. Character uniformly excellent. No exposure to activities that pose a risk to its current or potential use as a public water supply.

(2) Class II. Suitable for public water supply. Character uniformly excellent but exposed to activities that may pose a risk to its current or potential use as a public water supply.

(3) Class III. Suitable as a source of water for individual domestic water supply, irrigation, agricultural use, and general industrial and commercial use.

(4) Class IV. Not suitable as a source of potable water but suitable for some agricultural, industrial, and commercial use, provided that the Secretary may authorize, subject to conditions, use as a source of potable water supply or other use under a reclassification order issued for the aquifer.

(b) All groundwater of the State is hereby classified as Class III water unless reclassified by the Secretary.

(c) Any hearing on a classification or reclassification shall be held in a location convenient to the users or potential users of the groundwater which is the subject of the hearing.

(d) Class I or II classification shall apply to aquifers in use as a public water supply source or that in the opinion of the Secretary have a high probability for such use.

(e) In determining the appropriate classification of groundwater, the Secretary shall consider:

(1) its use or potential future use as a public water supply source;

(2) the extent of activity which poses a risk to the groundwater;

(3) its current water quality;

(4) its availability in quantities needed for beneficial use;

(5) the consequences of its potential contamination and the availability of alternate sources of water; and

(6) the classification of adjacent surface waters; and other factors relevant to determine the maximum beneficial use of the aquifer.

(f) It is the policy of the State to protect permanently Class I aquifers. The Secretary pursuant to subsection (h) of this section shall establish by rule activities that pose risks to Class I aquifers and which activities shall be prohibited in Class I aquifers. Any classification of Class I waters involving privately owned lands or reclassification of Class I waters by the Secretary shall become effective only when approved by act of the General Assembly.

(g) The Secretary's classifications shall be presumed correct if, in establishing the geographical limits of each class of groundwater, he or she uses generally accepted methods of determining aquifers based on existing knowledge of surficial and bedrock geology and available hydrological data.

(h) The Secretary by rule may establish technical criteria and standards to define the classes of groundwater and manage activities that may pose risks to groundwater classes. The criteria and standards shall include the identification of activities which constitute risks to the groundwater and which may be precluded. In adopting criteria and standards, the Secretary shall consider:

(1) drinking water standards adopted by the Department of Health and U.S. Environmental Protection Agency;

(2) the nature and quantity of groundwater at risk;

(3) the availability, cost, and effectiveness of measures to mitigate risks;

(4) the nature and quantity of risks that activities may generate;

(5) the expense and effectiveness of correcting the damage the risks may cause;

(6) the consequences to the public interest should damage occur and be irreparable;

(7) the economic, social, and environmental value of existing activities;

(8) the surface water quality standards, including the classification of surface waters; and

(9) other factors relevant to designating appropriate groundwater classes or managing risks to groundwater quality.

(i) The Secretary shall not adopt criteria and standards to manage activities that restrict agricultural activities or those activities under the jurisdiction of the Secretary of Agriculture, Food and Markets without the Secretary of Agriculture, Food and Markets' consent. Nor shall the Secretary adopt criteria and standards that restrict forestry management

activities without consultation with the Commissioner of Forests, Parks and Recreation. (Added 1985, No. 53, § 1; amended 2003, No. 42, § 2, eff. May 27, 2003; 2017, No. 55, § 8, eff. June 2, 2017.)

Subchapter 3: Licensing Of Well Contractors And Standards For Well Construction

§ 1395. Application

Any person who intends to engage in the business of drilling wells in the State of Vermont shall file an application with the Department of Environmental Conservation for a license to do so on forms provided by the Department on which the person's qualifications and other information that may be required by the Department shall be stated. The fee for a license or a renewal shall be in accordance with 3 V.S.A. § 2822. The licenses so issued shall expire every three years on June 30, shall not be transferable, and may be renewed on filing of a complete application and payment of the required fee in accordance with 3 V.S.A. § 2822. The fee shall be paid on an annual basis. (Added 1965, No. 206, § 1; amended 1981, No. 222 (Adj. Sess.), § 29; 1987, No. 76, § 6; 1989, No. 201 (Adj. Sess.), § 2; 1995, No. 103 (Adj. Sess.), § 1; 2001, No. 65, § 28.)

§ 1395a. Licenses; rules

(a) The Department shall issue licenses under this subchapter. A licensee may be authorized to perform more than one class of activities under a single license. The Department shall, by rule, establish appropriate application, testing, and renewal procedures for each class of activity under a license. The rule shall include the opportunity for an applicant to take the licensing test orally or by demonstration if the applicant fails the written test. The classes of activities under a license shall be as follows:

(1) Water well driller. This class shall consist of any person engaged in the business of constructing wells for the purpose of locating, extracting, or recharging groundwater, or for the purpose of transferring heat to or from the earth's subsurface.

(2) Monitoring well driller. This class shall consist of any person engaged in the business of constructing, servicing, or closing wells drilled for the purpose of monitoring groundwater quantity or quality.

(3), (4) [Repealed.]

(b) The Department may adopt rules to implement the provisions of this subchapter and to establish well construction standards for persons engaged in the business of well construction.

(c) Rules relating to licensing standards shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted licensure if they demonstrate that they possess the minimal occupational qualifications necessary for the purposes of groundwater protection. They shall not be designed or implemented for the purpose of limiting the number of licensees. All other rules to implement the provisions of this subchapter shall be rationally related to the purposes of this chapter, and shall be designed to achieve a reasonable balance between the expected governmental, societal, and occupational costs and the expected benefits. (Added 1989, No. 201 (Adj. Sess.), § 3; amended 1995, No. 103 (Adj. Sess.), § 2; 2001, No. 65, § 29.)

§ 1395b. Repealed. 2018, No. 2 (Sp. Sess.), § 2.

§ 1396. Records and reports

(a) Each licensee shall keep accurate records and file a report with the Department and well owner on each water well constructed or serviced, including the name of the owner, location, depth, character of rocks or earth formations and fluids encountered, and other reasonable and appropriate information the Department may, by rule, require.

(b) The reports required to be filed under subsection (a) of this section shall be on forms provided by the Department as follows:

(1) Each licensee classified as a water well driller shall submit a well completion report within 90 days after completing the construction of a water well.

(2) Each licensee classified as a monitoring well driller shall submit a monitoring well completion or closure report or approved equivalent within 90 days after completing the construction or closure of a monitoring well. Reporting on the construction of a monitoring well shall be limited to information obtained at the time of construction and need not include the work products of others. The filing of a monitoring well completion or closure report shall be delayed for one or more six-month periods from the date of construction upon the filing of a request form provided by the Department which is signed by both the licensee and well owner.

(3) [Repealed.]

(c) No report shall be required to be filed with the Department if the well is hand driven or is dug by use of a hand auger or other manual means.

(d) On or after January 1, 2013, a licensee drilling or developing a new water well for use as a potable water supply, as that term is defined in subdivision 1972(6) of this title, shall provide the owner of the property to be served by the groundwater source informational materials developed by the Department of Health regarding:

(1) the potential health effects of the consumption of contaminated groundwater; and

(2) recommended tests to detect specific contaminants, such as arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate or nitrite, fluoride, and manganese. (Added 1965, No. 206, § 2; amended 1981, No. 222 (Adj. Sess.), § 29; 1987, No. 76, § 18; 1989, No. 201 (Adj. Sess.), § 4; 1995, No. 103 (Adj. Sess.), § 4; 2011, No. 163 (Adj. Sess.), § 2, eff. Jan. 1, 2013.)

§ 1397. Repealed. 1995, No. 103 (Adj. Sess.), § 5.

§ 1398. Repealed. 1995, No. 103 (Adj. Sess.), § 10.

§ 1399. Penalties

Any person who violates a provision of this subchapter shall be fined not more than \$1,000.00 for each violation. (Added 1965, No. 206, § 6; amended 1981, No. 222 (Adj. Sess.), § 29; 1989, No. 201 (Adj. Sess.), § 5.)

§ 1400. Appeals

Appeals of any act or decision of the Commissioner or Secretary under this chapter shall be made in accordance with chapter 220 of this title. (Added 1965, No. 206, § 3; amended 1981, No. 222 (Adj. Sess.), § 29; 1987, No. 76, § 18; 1989, No. 201 (Adj. Sess.), § 6; 2003, No. 115 (Adj. Sess.), § 33, eff. Jan. 31, 2005.)

§ 1401. Repealed. 1989, No. 98, § 4(b).

§ 1402. Denial and revocation of license

A license may be denied, suspended, or revoked, or the renewal thereof denied by the Commissioner on the Commissioner's own investigation and motion or upon written complaint of others, if after notice and opportunity for hearing the Commissioner finds that the applicant or license holder has committed conduct specified under 3 V.S.A. § 129a as constituting unprofessional conduct by a licensee. (Added 1981, No. 222 (Adj. Sess.), § 29; amended 1989, No. 201 (Adj. Sess.) § 7; 2001, No. 133 (Adj. Sess.), § 3, eff. June 13, 2002.)

§ 1403. Closure of abandoned wells

The Commissioner may order a person legally responsible for an abandoned well to close the abandoned well in accordance with the rules established by the Department for the purpose of groundwater protection. An order shall not be issued under this section until the person legally responsible for the abandoned well has been given notice and an opportunity for an informal conference with the Commissioner. (Added 1989, No. 201 (Adj. Sess.), § 8.)

Subchapter 4: Groundwater Cause Of Action

§ 1410. Groundwater; right of action

(a) Findings and policy. The General Assembly hereby finds and declares that:

(1) surface and subsurface water are inherently interrelated in both quality and quantity;

(2) groundwater hydrology is a science that allows groundwater quality and quantity to be mapped and forecast;

(3) groundwater is a mobile resource that is necessarily shared among all users;

(4) all persons have a right to the beneficial use and enjoyment of groundwater free from unreasonable interference by other persons; and

(5) it is the policy of the State that the common-law doctrine of absolute ownership of groundwater is hereby abolished.

(b) Definitions. As used in this section:

(1) "Groundwater" means water below the land surface.

(2) "Surface water" means any water on the land surface.

(3) "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or any agency, department, or subdivision of the State, federal agency, or any other legal or commercial entity.

(c) Cause of action. Any person may maintain under this section an action for equitable relief or an action in tort to recover damages, or both, for the unreasonable harm caused by another person withdrawing, diverting, or altering the character or quality of groundwater.

(d) Scope of liability. Notwithstanding the provisions of subsection (c) of this section, a person who alters groundwater quality or character as a result of agricultural or silvicultural activities, or other activities regulated by the Secretary of Agriculture, Food and Markets, shall be liable only if that alteration was either negligent, reckless, or intentional.

(e) Factors in determining reasonableness. Factors to be considered in determining the unreasonableness of any harm referred to in subsection (c), above, shall include, but need not be limited to, the following:

(1) the purpose of the respective uses or activities affected;

(2) the economic, social, and environmental value of the respective uses, including protection of public health;

(3) the nature and extent of the harm caused, if any;

(4) the practicality of avoiding the harm, if any;

(5) the practicality of adjusting the quantity or quality of water used or affected and the method of use by each party;

(6) the maintenance or improvement of groundwater and surface water quality;

(7) the protection of existing values of land, investments, enterprises, and productive uses;

(8) the burden and fairness of requiring a person who causes harm to bear the loss; and

(9) the burden and fairness of requiring a person to bear the loss, who causes harm in the conduct of reasonable agricultural activities, utilizing good agricultural practices conducted in conformity with federal, State, and local laws and regulations.

(f) Effect on other remedies. Nothing in this section shall be construed to preclude or supplant any other statutory or common-law remedies.

(g) Presumption of compliance. For the purposes of this section, a person who obtains and complies with a withdrawal permit issued pursuant to the requirements of section 1418 of this title shall be presumed to be engaged in a reasonable use of groundwater and not to cause unreasonable harm under subsection (b) of this section. (Added 1985, No. 69, §§ 1, 2; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 2003, No. 42, § 2, eff. May 27, 2003; 2007, No. 199 (Adj. Sess.), § 3, eff. June 9, 2008.)

Subchapter 5: Interim Groundwater Withdrawal Permit**§ 1415. Repealed. 2005, No. 144 (Adj. Sess.), § 7.****Subchapter 6: Groundwater Withdrawal Program****§ 1416. Definitions**

As used in this subchapter:

(1) "Farming" means farming as the term is defined in subdivision 6001(22) of this title.

(2) "Groundwater" means water below the land surface, including springs.

(3) "Person" means any individual, partnership, company, corporation, cooperative, association, unincorporated association, joint venture, trust, the State of Vermont, or any department, agency, subdivision, or municipality, the U.S. government or any department, agency, or subdivision, or any other legal or commercial entity.

(4) "Spring" means a groundwater source where groundwater flows naturally to the surface of the earth and is collected with a developed structure that is designed to locate or extract groundwater.

(5) "Surface water" means waters within the meaning of subdivision 1251(13) of this title.

(6) "Water resources" means groundwater or surface water.

(7) "Well" means any hole drilled, driven, bored, excavated, or created by similar method into the earth to locate, monitor, extract, or recharge groundwater where the water table or potentiometric surface is artificially lowered through pumping.

(8) "Withdraw" or "withdrawal" means the intentional removal by any method or instrument of groundwater from a well, spring, or combination of wells or springs. (Added 2007, No. 199 (Adj. Sess.), § 2, eff. June 9, 2008.)

§ 1417. Existing groundwater withdrawal; reporting

(a) Beginning September 1, 2009, any person that withdraws more than 20,000 gallons per day, averaged over a calendar month at a single tract of land or place of business shall file a groundwater report with the Secretary of Natural Resources on or before September 1 for the preceding calendar year. The report shall be made on a form prescribed by the Secretary and shall include:

(1) the location, capacity, frequency, and rate of the withdrawal;

(2) a description of the use of the water withdrawn; and

(3) where feasible, the distance of each withdrawal from the nearest surface water source and wetland.

(b) The following are exempt from the reporting requirements of this section:

(1) a groundwater withdrawal for fire suppression or other public emergency purposes;

(2) a withdrawal reported to the Agency of Natural Resources under any program that requires the reporting of substantially similar data. The Agency of Natural Resources shall record such withdrawals with the information from withdrawals reported under this section;

(3) domestic, residential use;

(4) groundwater withdrawal for farming;

(5) dairy processors and milk handlers licensed in accordance with 6 V.S.A. § 2721;

(6) public water systems, as that term is defined in section 1671 of this title; and

(7) closed loop, standing column, or similar non-extractive geothermal heat pumps.

(c) The Secretary of Natural Resources may adopt rules to implement this section, including methods for calculating or estimating the amount of groundwater withdrawn from a well or spring. (Added 2007, No. 199 (Adj. Sess.), § 2, eff. June 9, 2008.)

§ 1418. Groundwater withdrawal permit

(a) On and after July 1, 2010, no person, for commercial or industrial uses, shall make a new or increased groundwater withdrawal of more than 57,600 gallons a day from any well or spring on a single tract of land or at a place of business without first receiving from the Secretary of Natural Resources a groundwater withdrawal permit. The following shall constitute a "new or increased withdrawal":

(1) The expansion of any existing withdrawal through:

(A) additional withdrawal from one or more new wells or springs; or

(B) an increase in the rate of withdrawal from a well or spring above the maximum rate set forth in any existing permit issued by the Secretary of Natural Resources under this section; or

(2) For previously unpermitted withdrawals, an increase in the rate of withdrawal after July 1, 2010 from a well or spring on a single tract of land or at a place of business of 25 percent of the baseline withdrawal or an increase of 57,600 gallons of groundwater withdrawn, whichever is smaller.

(3) For the purposes of this subsection, the baseline withdrawal shall be the highest amount withdrawn by a person between 2005 and 2010.

(b) The following are exempt from the permitting requirements of this section:

(1) a groundwater withdrawal for fire suppression or other public emergency purpose;

(2) domestic, residential use;

(3) groundwater withdrawal for farming;

(4) dairy processors and milk handlers licensed in accordance with 6 V.S.A. § 2721;

(5) public water systems, as that term is defined in section 1671 of this title; and

(6) closed loop, standing column, or similar non-extractive geothermal heat pumps.

(c) When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

(d) Application for a permit shall be on a form prepared by the Secretary. An application shall, at a minimum, contain the information necessary to make the determinations contained in subsection (e) of this section, and the following:

(1) the purpose for the withdrawal;

(2) the location and source of the withdrawal;

(3) the amount of the proposed withdrawal, including estimates of the projected mean and peak daily, monthly, and annual withdrawals;

(4) the place of the proposed return flow of withdrawn water;

(5) the estimated amount of water that will not be returned to the watershed where the proposed withdrawal is located;

(6) the location, demand on, and yield of existing sources of groundwater and surface water utilized by the applicant; and

(7) a brief description of the alternative means considered for satisfying the applicant's stated use for water.

(e) The Secretary shall not issue a permit for a new or increased groundwater withdrawal unless the Secretary determines:

(1) that the proposed withdrawal is planned in a fashion that provides for efficient use of the water;

(2) that the proposed withdrawal, in combination with other existing withdrawals, will meet the standards set by the Secretary of Natural Resources in rule for establishing a safe yield in the area of the withdrawal;

(3) that the proposed withdrawal is consistent with the town or regional plan in which the proposed withdrawal is located, and with any duly adopted State policy to manage groundwater as a shared resource for the benefit of all citizens of the State, including any policies and programs of the State of Vermont regarding long-range planning, management, allocation, and use of groundwater and surface water in effect at the time the application for the withdrawal is filed;

(4) that the proposed withdrawal will not have an undue adverse effect on existing uses of water dependent on the same water source;

(5) that the proposed withdrawal will not have an undue adverse effect on a public water system permitted by the Agency of Natural Resources;

(6) that the proposed withdrawal will not have an undue adverse effect on significant wetlands under the Vermont wetland rules or on other water resources hydrologically interconnected with the well or spring from which the proposed withdrawal would be made;

(7) that the proposed withdrawal will not violate the Vermont water quality standards; and

(8) any other consideration that the Secretary determines necessary for the conservation of water or protection of groundwater quality.

(f) A permit issued under this section shall be valid for the period of time specified in the permit but not for more than 10 years. A permit issued under this section shall include the following:

(1) that groundwater withdrawals from a well or spring for drinking water supplies, farming, or dairy processing shall be given priority over other uses during times of shortage; and

(2) any other condition that the Secretary determines necessary for the conservation of water or protection of groundwater quality.

(g) The Secretary may require any person withdrawing groundwater in the State to obtain a permit under this section if the withdrawal is not exempt under subsection (b) of this section and the Secretary determines that the withdrawal violates the Vermont water quality standards or has an undue adverse effect on an existing use of groundwater, a public water system permitted by the Agency of Natural Resources, wetlands, or water resources hydrologically interconnected with the well or spring from which the withdrawal occurs. The Secretary shall make a determination under this section based on review of the information set forth under subsection (d) of this section that is readily available to the Secretary.

(h) A withdrawal permit issued under this section may be transferred upon a change of ownership of the facility or project for which the permit was issued, provided that the new owner applies for an administrative amendment to the permit certifying its agreement to comply with all terms and conditions of the transferred permit and assume all other associated obligations.

(i) The following groundwater withdrawals shall be deemed to comply with the public trust requirements of the State for groundwater management and shall be entitled to a presumption that the withdrawal complies with the public trust requirements of the State:

(1) A groundwater withdrawal permitted under this section;

(2) A groundwater withdrawal for domestic, residential use;

(3) A groundwater withdrawal for public water systems, except for a bottled water facility operating under a source permit issued prior to June 9, 2008, permitted under chapter 56 of this title;

(4) A groundwater withdrawal for a potable water supply permitted under chapter 64 of this title;

(5) A groundwater withdrawal for farming conducted in compliance with the requirements of 6 V.S.A. chapter 215;
and

(6) A groundwater withdrawal by a dairy processor or milk handler licensed in accordance with 6 V.S.A. § 2721.

(j) On or before July 1, 2010, the Secretary shall adopt rules to implement this section. When rules are adopted by the Secretary under this section, section 1415 of this title shall be repealed. The rules adopted under this section shall include:

(1) requirements for the mitigation of an undue adverse effect on drinking water supplies, farming, public water systems, or any other affected use when the Secretary determines such an undue adverse effect is likely to occur due to a proposed withdrawal;

(2) requirements for the renewal of permits issued under this section.

(k) Nothing contained in this subchapter shall be construed to alter or modify a right under a deed or contract to access groundwater in this State. (Added 2007, No. 199 (Adj. Sess.), § 2, eff. June 9, 2008; amended 2009, No. 154 (Adj. Sess.), § 236; 2015, No. 150 (Adj. Sess.), § 19, eff. Jan. 1, 2018.)

§ 1419. Circumvention

The Secretary may require a person to report under section 1417 of this title or obtain a permit under section 1418 of this title when the Secretary, in his or her discretion, determines that a withdrawal, subdivision of land, transfer of property, or other action is intended to circumvent the requirements of this subchapter. (Added 2007, No. 199 (Adj. Sess.), § 2, eff. June 9, 2008.)