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PROPOSED SOLID WASTE MANAGEMENT ACT

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AIR POLLUTION AND SOLID WASTE PROGRAMS

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REVISED  
FIRST DRAFT

AGENCY OF ENVIRONMENTAL CONSERVATION

Division of Environmental Protection

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SOLID WASTE MANAGEMENT ACT

It is the purpose of this bill to authorize proper management for the storage, collection, transfer, transport, utilization, processing, and disposal of solid waste and to provide a means of control and enforcement over such activities to an extent which will protect the health and safety and conserve the environment.

SECTION 1: DEFINITIONS

- a) "Solid Waste" means useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing including such material resulting from industrial, commercial, forestry, agricultural operations, community activities, and any other activity. Solid waste does not include earthen fill, boulders, rock, and other materials normally handled in construction operations, solids or dissolved material in domestic sewage, frozen liquids, or other significant pollutants in water resources, such as dissolved or suspended solids in industrial waste water, effluents in a liquid state, or other common water pollutants in a liquid state.
- b) "Solid Waste System" means all or part of the movement of solid waste from point of generation through storage, collection, transport, processing, salvaging and disposal stages.
- c) "Usable material" means that solid waste material which has assumed a commercial value or usefulness without further processing except packaging, and is accredited as such by the Agency.

- d) "Collection" means the gathering of solid waste from public or private places, and conveying such waste elsewhere.
- e) "Storage" means the holding or storage of solid waste for whatever purpose for later processing or transport to other areas.
- f) "Salvage areas" means any area public or private, outside or within a building used for reclaiming usable materials from solid waste.
- g) "Transportation" means the conveying of solid waste other than wholly usable material from one place to another, by means of vehicle, rail car, water vessel, conveyor or any other means.
- h) "Toxic and hazardous wastes" means waste materials including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, mixed waste of unknown content, and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner to conserve the environment and protect the public health and safety.
- i) "Private Dump" means an open dump or a disposal site not operated in accordance with the sanitary landfill regulations, more than 300 feet from a public highway and the lands of others and not within view of public highway which is not polluting a water course and contains the domestic refuse of a single household of the owner of the land.

j) "Stump Dump" means disposal areas for trees, stumps, limbs, clippings, demolition rubble which includes wood shapes, but not metallic structuring, and building debris, which does not contain other refuse and is not a potential pollutant or a health hazard.

k) "Processing Facilities" means the area and equipment, both inside and outside of buildings used in storing or processing by whatever means, solid waste being reclaimed, either wholly or partially, or incinerated.

l) "Agency" means the Agency of Environmental Conservation as established by 2802, Subchapter 1, Chapter 51, Title 3, V.S.A. The Protection Division is a component of this Agency.

m) "Secretary" means the Secretary for the Agency of Environmental Conservation as established by 2821, Subchapter 1, Chapter 51, Title 3, V.S.A.

SECTION 2: RESPONSIBILITIES AND AUTHORITIES OF TOWNS AND MUNICIPALITIES

a) Each town and city shall provide for the operation and maintenance of either reclaiming operations, sanitary landfills, incinerators and stump dumps, or a combination thereof or such other method as may be approved by the Secretary as the exclusive means for disposal of garbage and refuse, subject to the regulations established by the Board of Health, by conducting such an operation or by contract with other towns or private solid waste system operators who have approval certificates to operate from the Protection Division and other approval Commissions, Boards, or entities.

b) Where immediate compliance with this section will work an extreme hardship on a municipality whose residents are individually complying with this Act, the Protection Division may conditionally waive such compliance for a specifically limited period.

c) The Director of the Protection Division may grant an exception to permit the use of public open dumps which are not within the view of a public highway, except a dump access road, when practical because of sparse population, areas remote from approved disposal facilities, terrain or other factors. The department shall review the exceptions granted at least every two years. If plantings of trees or shrubs are used to effect eventual compliance with this paragraph, the Director of the Protection Division may grant additional waivers to permit the growth of such plantings.

d) A town, municipality, or regional civil entity may make, amend, or repeal regulations for handling of solid waste within its limits and to impose penalties for the breach thereof, not to exceed a fine of \$100.00 for each violation. This section shall not be construed to permit the existence of a nuisance or to make this act or the regulations of the Board of Health less effective.

e) A municipality may refuse the right, or charge commercial and industrial concerns to dispose of their solid waste into the town solid waste, beyond a quantity equivalent to that generated by a domestic household.

SECTION 3: POWERS AND DUTIES OF AGENCY OF ENVIRONMENTAL CONSERVATION

A. Administer the Solid Waste Management Program pursuant to the provisions of this Act. The Protection Division is designated as the component of the Agency responsible for performing the functions vested in the Agency.

B. Recommend to the Board of Health new health regulations and revisions of existing health regulations governing the storage, collection, transport, processing, and disposal of solid waste and sites, equipment, and facilities related thereto. The Secretary may adopt such rules and regulations as seen necessary to carry on responsible control of solid waste systems excepting those items related to health and health related factors. The Secretary for Human Resource may adopt such regulations pertaining to those items relating to health and health related factors.

C. Establish guidelines for effective solid waste management systems.

D. Issue such permits and orders and conduct such inspections as may be necessary to implement the provisions of this Act and the rules, regulations, and standards adopted by the Board of Health.

E. Prepare the necessary application forms for the required permits that shall require sufficient information to identify the applicant, its business address, its principal officers, the type of waste being processed and the equipment or facilities under permit, and such other information the Secretary by rule may require.

F. Issue notices to permit holders for violations of the rules and regulations

of the Board of Health, the provisions of this Act, or the laws of the state.

Such notice shall set forth the violations to be corrected and the time in which such violations shall be corrected.

(THIS PARAGRAPH MAY NEED TO BE COUPLED WITH ACT #93)

G. To conduct research in solid waste management, emphasizing methods of collection, volume reduction, and resource recovery.

H. Recommend utilization of solid wastes through recycling.

I. Recommend activities and actively participate in a public relations program to support state solid waste management goals.

J. To provide specialized solid waste processing services which appear to be economically functional only on a statewide basis and to receive money for such services.

K. 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 act. The funds received by the Agency pursuant to this section shall be deposited in the general fund of the state treasury to the account of the State Board of Health.

L. Encourage voluntary cooperation with persons, municipalities, and affected groups to achieve the purposes of this Act.

SECTION 4: PROHIBITIONS AND PERMITS REQUIRED

a) No solid waste facility, collection equipment, transport equipment, transfer station, storage area, processing facility or disposal site shall be operated within this state until a permit is issued by the Agency of Environmental Conservation for each facility, equipment, or site. All persons operating existing facilities and disposal sites shall comply with the permit requirements of this Act by June 31, 1972. No permit may be transferred without the prior written consent of the Agency of Environmental Conservation.

Each permit issued shall be valid for a period specified by the Secretary from its date of issue unless suspended or revoked by the Agency of Environmental Conservation.

Each permit holder shall apply for renewal of each permit held, upon forms provided by the Agency of Environmental Conservation, not more than 90 days prior to the expiration date of each permit.

Plans, designs, and relevant data, including surface and ground-water supplies and zoning board approval for the construction or alteration of solid waste processing, storage, transport, transfer and disposal areas and equipment thereof shall be submitted to the Agency of Environmental Conservation for approval prior to the construction, alteration, or operation of such facility or area.

b) A person shall not construct, alter, or operate a solid waste collection, transport, transfer, storage processing equipment or facility and site area or disposal facility or area which is part of a solid waste system without a certificate of permission to operate or use from the Agency or in violation of the rules, regulations, standards, or orders of the Board of Health.

c) A person shall not store, collect, transfer, transport, process, or dispose of solid waste contrary to the rules, regulations, standards, or orders of the Board of Health or in such manner as to create a public nuisance or health hazard.

d) Any permit granted by the Agency of Environmental Conservation, as provided in this Act may be suspended if it is determined that the solid waste processing, storage, transport, transfer, and disposal areas and equipment thereof or disposal facility or area is, or has been conducted in violation of this Act or the rules, regulations, or standards adopted pursuant to this Act, or is relating to a public nuisance. When the Division believes a permit should be suspended or revoked, it shall file a statement of complaint with the Secretary for the Agency of Environmental Conservation. A person aggrieved by the refusal of the Agency to issue a permit may file a statement of complaint with the Secretary.

e) The Secretary may require any industrial concern to assume specific responsibilities relative to the content of their industrial solid waste and to require a permit from the Protection Division to dispose of this waste in a specific solid waste system.

f) Nothing in this section shall be construed as prohibiting a person from storing or transporting refuse generated by that person, if in doing so it will not create a public nuisance or health hazard.

SECTION 5: MUNICIPAL SOLID WASTE DISPOSAL, STORAGE, OR PROCESSING SITES, CONDEMNATION, PROCEDURE

a) When the location of a solid waste disposal, storage, or processing site is determined and lands and grounds are needed or when a municipality votes to purchase additional lands or when, in the exercise of any of the powers or functions authorized by its charter or bylaws, it becomes necessary for public use and benefit to take damage, or affect lands, and the owner refuses to release or convey the same to such municipality for a reasonable price, the mayor and aldermen of such city, the selectmen of such town or the trustees of such village or the prudential committee of such fire district shall set out the necessary lands and cause the same to be surveyed. They shall appoint a time and place for hearing and give at least ten days' notice thereof before such hearing to the persons interested, either personally or by written notice left at the residence of the owner or occupant of such lands. At such hearing they shall determine the damages sustained by such interested persons. The damages agreed upon or assessed shall be paid or tendered to such persons before taking possession of the lands. Nothing in this section shall be construed to authorize the taking, by condemnation proceedings, of property of any religious, charitable or educational society, institution or organization, unless held, owned or used by it for commercial purposes, without the written consent of the trustees or governing body of such society, institution,

or organization, unless two-thirds of the voters at an annual or special meeting duly warned for that purpose vote contrariwise.

NOTICE TO MORTGAGEE; APPLICATION OF PAYMENT

b) When such lands are encumbered by mortgage, such municipality shall cause the same notice to be given to the mortgagee or assignee thereof as is required to be given to the owner, and the damages agreed upon or otherwise determined, as finally ascertained, shall be paid to the mortgagee or assignee. However, if the sum due on the mortgage is less than the damages awarded, the amount due on the mortgage shall be paid to the holder and the balance to the owner.

PROCEDURE

c) When the mayor and aldermen, selectmen or trustees decide to take lands, in their order for that purpose, they shall fix a time and notify the owner or occupant thereof. Within such time, he shall remove his buildings, fences, timber, wood, or trees, which in the case of enclosed or improved lands, shall not, without the consent of the owner, be less than three months nor until compensation for damages to such lands is tendered or paid. If such obstructions are not removed within such time, the mayor and aldermen, selectmen or trustees shall remove them at the expense of the town or village.

RECORD OF ORDERS AND PROCEEDINGS

d) Orders and proceedings of the mayor and aldermen, selectmen and trustees, under the provisions of sections \_\_\_\_\_ of this title, with the survey of the lands taken, shall be recorded in the office of the clerk of the city, town or village in which the land lies.

DISAGREEMENT AS TO DAMAGES; REFERENCE

e) When the owner of such land does not accept the damages awarded by the mayor or aldermen, selectmen or trustees, as the case may be, they may agree with him to refer the question of such damages to one or more disinterested persons, whose award shall be made in writing and shall be final.

PETITION, APPOINTMENT OF COMMISSIONERS

f) When a person having an interest in such land is dissatisfied with the action of the mayor and aldermen, selectmen or trustees in locating and setting it out or with the damages awarded therefor by them, he may apply by petition to the county court for the county wherein such land lies within sixty days of the recording of the order of the mayor and aldermen, selectmen, or trustees, and any number of persons aggrieved may join in the petition. The petition with a citation shall be served on the clerk of the city, town or village as a writ of summons requiring entry to be made therein within twenty-one days from the date of service. The court shall appoint three disinterested commissioners, who shall inquire into the necessity

for locating and setting out such land and as to the amount of damages sustained by the persons interested therein.

NOTICE; HEARING; REPORT; COSTS

G) The commissioners shall give to such clerk and to the petitioners six days' notice of the time and place of hearing. When they have completed their inquiries, they shall report to the court. Upon hearing, the court may accept or reject the report, in whole or in part, may make such orders as are necessary for locating and setting out such land and for the removal of obstructions thereon, may render judgment for the petitioners for such damages as they have severally sustained, may tax costs for either party and may award execution in the premises.

TITLE TO VEST ON PAYMENT OF DAMAGES

H) When the damages finally awarded are paid to the person entitled thereto, title to such lands or the right to damage or affect lands shall vest in such city, town or village for such purposes.

SECTION 6: PUBLIC INSPECTION

Any duly authorized officer, employee, or representative of the Agency, Department of Health, Board of Health, or Town Health Officer may enter and inspect any property, premise, place or equipment, on or at which the storage, collection, transfer, transport, utilization, processing, disposal or incineration or any other phase of a solid waste system is located or within or is being constructed or installed, at any reasonable time for the purpose ascertaining the state of compliance with this Act and rules and regulations in force pursuant to. The Secretary may apply for and obtain orders from county court to enter upon premises for the inspection thereof upon showing that reasonable grounds exist for believing that a violation of and part of this act or regulations exist.

SECTION 7: PENALTY

Any person who violates any provision of this Act, or rules and regulations adopted pursuant thereto or who fails, neglects, or refuses to obey or comply with any section of this Act, or with an order or the terms of any permit or certificate issued in accordance with this Act, shall be fined not more than \$1,000. Each violation shall be a separate and distinct offense and in the case of a continued violation, each day of continuance thereof shall be deemed a separate and distinct offense.

SECTION 8: REPEAL

Sections 2201 a, 2202, 2203, 2204, of Subchapter 8, Chapter 51, Title 24 V.S.A. is repealed on the passage of this Act.