

1       Sec. X. VARIANCE OF UNIVERSAL RECYCLING REQUIREMENTS;

2                       COVID-19

3           (a) A solid waste management facility or commercial hauler may apply to  
4           the Secretary of Natural Resources to issue a variance to one or more of the  
5           following requirements as a result of a declared state of emergency under 20  
6           V.S.A. chapter 1 due to the COVID-19 coronavirus:

7                       (1) the requirement for a solid waste management facility to collect  
8           mandated recyclables, leaf and yard residuals and wood waste, and food  
9           residuals separate from solid waste under 10 V.S.A. § 6605(j);

10                      (2) the requirement for a commercial hauler to offer to collect mandated  
11           recyclables and food residuals separate from solid waste under 10 V.S.A.  
12           § 6607a(g)(1); and

13                      (3) the prohibition under 10 V.S.A. § 6621a on the landfill disposal by a  
14           solid waste management facility of mandated recyclables, leaf and yard  
15           residuals and wood waste, or food residuals.

16           (b) The Secretary may grant a variance under this section upon a finding  
17           that:

18                      (1) the proposed variance will not endanger human health or safety;

19                      (2) compliance with the requirement would produce serious hardship to  
20           the applicant without equal or greater benefits to the public; and

1           (3) the inability to comply with the requirement or the difficulty in  
2           complying with the requirement is attributable to the COVID-19 coronavirus,  
3           including personnel shortages during the declared state of emergency due to  
4           illness or contractors or laboratories not operating due to not being designated  
5           as critical during the declared state of emergency.

6           (c) The Secretary of Natural Resources shall include the following in any  
7           variance issued under this section:

8           (1) a requirement that the solid waste management facility or  
9           commercial hauler comply with the relevant requirement for which a variance  
10           is sought to the maximum extent feasible in light of hardship posed by the  
11           COVID-19 coronavirus; and

12           (2) if compliance with the relevant requirement is not possible, the  
13           authority of the Secretary of Natural Resources to impose conditions that  
14           require an applicant to return to compliance as soon as practicable or according  
15           to a schedule of compliance issued by the Secretary.

16           (d) Prior to issuing a variance under subsection (a), the Secretary of Natural  
17           Resources shall conduct public notice and comment according to the  
18           requirements of 10 V.S.A. § 7716 (Type 5). Decisions made by the Secretary  
19           of Natural Resources under this section shall be reviewable by the  
20           Environmental Division of the Superior Court under 10 V.S.A. chapter 220.

1       (e) A variance issued under subsection (a) of this section shall be issued for  
2       not more than 60 days and, upon request of the solid waste management  
3       facility or commercial hauler, may be renewed in the same manner as an  
4       original application for a variance under this section.

5       (f) If the Secretary of Natural Resources grants a variance under this  
6       section, the Secretary shall notify the Senate Committee on Natural Resources  
7       and Energy and the House Committee on Natural Resources, Fish and Wildlife  
8       of the issued variance and shall include a copy of the variance with the notice.