S.47

An act relating to salvage yards

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) Salvage yards provide an important and valuable service in Vermont that should be encouraged to continue;

(2) Automobile salvage yards are the leading recycling industry in the United States and are responsible for recycling between 75 percent and 85 percent of the material content of end of life vehicles.

(3) The role of salvage yards in recycling material is an important factor in natural resource conservation and solid waste management in Vermont.

(4) Poorly operated salvage yards, however, have the potential to significantly impact and contaminate the natural resources of Vermont.

(5) The state's regulatory authority over salvage yards should be transferred to the agency of natural resources in order to improve compliance by salvage yards with the relevant state and federal environmental requirements.

Sec. 2. 24 V.S.A. chapter 61, subchapter 10 is amended to read:

Subchapter 10. ~~Junkyards~~ Salvage Yards

Sec. 3. 24 V.S.A. § 2201(b) is amended to read:

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than $500.00. This violation shall be enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4 in an action that may be brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the agency of natural resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing, or depositing was done by the driver of such motor vehicle. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or ~~junkyard~~ salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the state or towns.

Sec. 4. 24 V.S.A. § 2241 is amended to read:

§ 2241. DEFINITIONS

For the purposes of this subchapter:

(1) "Abandoned" means a motor vehicle as defined in 23 V.S.A. § 2151.

(2) "Board" means the state transportation board, or its duly delegated representative.

(3) "Highway" means any highway as defined in section 1 of Title 19.

(4) "Interstate or primary highway" means any highway, including access roads, ramps and connecting links, which have been designated by the state with the approval of the Federal Highway Administration, Department of Transportation, as part of the National System of Interstate and Defense Highways, or as a part of the national system of primary highways.

(5) "Junk" means old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.

(6) "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, or one other than an on-premise utility vehicle which is allowed to remain unregistered for a period of ninety days from the date of discovery.

(7) ~~"Junkyard"~~ "Salvage yard" means any place of outdoor storage or deposit ~~which is maintained, operated or used in connection with a business~~ for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. ~~"Junkyard"~~ "Salvage yard" also means any place of

outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway or navigable water, as that term is defined in section 1422 of Title 10. ~~However, the term does not include a private garbage dump or a sanitary landfill which is in compliance with section 2202 of this title and the regulations of the secretary of human services.~~ It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

(8) "Legislative body" means the city council of a city, the board of selectmen of a town or the board of trustees of a village.

(9) "Main traveled way" means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway and designated by the transportation board as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.

(10) "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers.

(11) "Notice" means by certified mail with return receipt requested.

(12) "Scrap metal processing facility" means a manufacturing business which purchases sundry types of scrap metal from various sources including

the following: industrial plants, fabricators, manufacturing companies, railroads, junkyards, auto wreckers, salvage dealers, building wreckers, and plant dismantlers and sells the scrap metal in wholesale shipments directly to foundries, ductile foundries and steel foundries where the scrap metal is melted down and utilized in their manufacturing process.

(13) "Secretary" means the secretary of natural resources or the secretary's designee.

Sec. 5. 24 V.S.A. § 2242 is amended to read:

§ 2242. REQUIREMENT FOR OPERATION OR MAINTENANCE

(a) A person shall not operate, establish, or maintain a ~~junkyard~~ salvage yard unless he or she:

(1) Holds a certificate of approval for the location of the ~~junkyard~~ salvage yard; and

(2) Holds a ~~license~~ certificate of registration issued by the secretary to operate, establish, or maintain a ~~junkyard~~ salvage yard.

(b) The issuance of a certificate of registration under subsection (a) of this section shall not relieve a salvage yard from the obligation to comply with existing state and federal environmental laws and to obtain all permits required under state or federal environmental law.

Sec. 6. 24 V.S.A. § 2243 is amended to read:

§ 2243. ~~AGENCY OF TRANSPORTATION; RESPONSIBILITIES; DUTIES~~

ADMINISTRATION; DUTIES AND AUTHORITY

The agency of transportation ~~is~~ and the secretary of natural resources are designated as ~~the state agency for the purpose of~~ responsible for carrying out the provisions of this subchapter and shall have the following additional responsibilities and powers:

(1) ~~It~~ The agency of transportation or the secretary of natural resources may make such reasonable rules and regulations as ~~it deems~~ he or she deems necessary, provided such rules and regulations do not conflict with any federal laws, rules, and regulations, or the provisions of this subchapter.

(2) ~~It~~ The agency of transportation shall enter into agreements with the United States Secretary of Transportation or his or her representatives in order to designate those areas of the state which are properly zoned or used for industrial activities, and to arrange for federal cost participation.

(3) ~~It shall determine the effectiveness of the screening of any junkyard affected by this subchapter.~~

~~(4) It shall determine whether any junkyard must be screened or removed and may order such screening or any removal~~ The secretary shall adopt and enforce requirements for adequate fencing and screening of salvage yards.

~~(5) It shall approve and pay from funds appropriated for this purpose costs incurred under section 2264 of this title, and may refuse payment of all or part of such costs when it finds they are unreasonable or unnecessary.~~

~~(6)~~(4) ~~It~~ The agency of transportation may seek an injunction against ~~the establishment, operation or maintenance of a junkyard~~ a salvage yard which is ~~or will be~~ in violation of ~~this~~ the relevant provisions of this subchapter ~~and may obtain compliance with its orders for screening or removal by a petition to the superior court for the county in which the junkyard is located~~. The secretary may enforce the relevant provisions of this chapter under chapter 201 of Title 10.

~~(7) It shall conduct a continuing survey of all highways for the purpose of determining the status of junkyards affected and that the provisions of this subchapter are properly observed.~~

~~(8)~~(5) ~~It~~ The agency of transportation or the secretary may issue necessary orders, findings, and directives, and do all other things reasonably necessary and proper to carry out the purpose of this subchapter.

Sec. 7. 24 V.S.A. § 2245 is amended to read:

§ 2245. INCINERATORS, SANITARY LANDFILLS, ETC., EXCEPTED

The provisions of this subchapter shall not be construed to apply to ~~incinerators, sanitary landfills, or open dumps wholly owned or leased and operated by a municipality for the benefit of its citizens, or to any private~~

~~garbage dump or any sanitary landfill which is in compliance with section 2202 of this title and the regulations of the secretary of human services~~ solid waste management facilities regulated under 10 V.S.A. chapter 159.

Sec. 8. 24 V.S.A. § 2246 is amended to read:

§ 2246. EFFECT OF LOCAL ORDINANCES

This subchapter shall not be construed to be in derogation of zoning ordinances or ordinances for the control of ~~junkyards~~ salvage yards now or hereafter established within the proper exercise of the police power granted to municipalities, if those ordinances impose stricter limitations upon ~~junkyards~~ salvage yards. If the limitations imposed by this subchapter are stricter, this subchapter shall control.

Sec. 9. 24 V.S.A. § 2247 is amended to read:

§ 2247. JUNKYARD ~~LICENSES~~ CERTIFICATE OF REGISTRATION

The provisions of this subchapter shall not be construed to repeal or abrogate any other provisions of law authorizing or requiring a ~~license~~ certificate of registration to own, establish, operate, or maintain a ~~junkyard~~ salvage yard, but no ~~license~~ certificate of registration shall be issued in contravention of this subchapter, or continue in force after the date on which the ~~junkyard~~ salvage yard for which it is issued becomes illegal under this subchapter regardless of the term for which the ~~license~~ certificate of

registration is initially issued if the ~~junkyard~~ salvage yard is not satisfactorily screened.

Sec. 10. 24 V.S.A. § 2251 is amended to read:

§ 2251. APPLICATION FOR CERTIFICATE OF APPROVED LOCATION

Application for a certificate of approved location shall be made in writing to the legislative body of the municipality where ~~it is~~ the salvage yard is located or where it is proposed to ~~locate the junkyard~~ be located, and, in municipalities having a zoning ~~ordinance and a zoning board of adjustment~~ bylaw, subdivision regulations established under sections ~~4301–4492~~ 4301–4498 of this title, or a municipal ordinance or rule established under sections 1971–1984 of this title, the application shall be accompanied by a certificate from the ~~board of adjustment~~ legislative body or a public body designated by the legislative body. The legislative body or its designee shall find the proposed salvage yard location is not within an established district restricted against such uses or otherwise contrary to the requirements or prohibitions of such zoning ~~ordinance~~ bylaw or other municipal ordinance. The application shall contain a description of the land to be included within the ~~junkyard~~ salvage yard, which description shall be by reference to so-called permanent boundary markers.

Sec. 11. 24 V.S.A. § 2253 is amended to read:

§ 2253. LOCATION REQUIREMENTS

(a) At the time and place set for hearing, the legislative body shall hear the applicant, the owners of land abutting the facility, and all other persons wishing to be heard on the application for certificate of approval for the location of the ~~junkyard~~ salvage yard. ~~In passing upon the same, it shall take into account, after~~ The legislative body shall consider the following in determining whether to grant or deny the certificate:

(1) proof of legal ownership or the right to such use of the property by the applicant~~,~~;

(2) the nature and development of surrounding property, such as the proximity of highways and state and town roads and the feasibility of screening the proposed ~~junkyard~~ salvage yard from such highways~~,~~ and state and town roads; the proximity of ~~churches,~~ places of worship; schools~~,~~ ; hospitals~~,~~ ; existing, planned, or zoned residential areas; public buildings; or other places of public gathering; and

(3) whether or not the proposed location can be reasonably protected from affecting the public health, safety, environment, or ~~morals by reason of offensive or unhealthy odors or smoke, or of other causes~~ from a nuisance condition.

(b)(1) A person shall not establish, operate, or maintain a ~~junkyard~~ salvage yard which is within ~~one thousand~~ 1,000 feet of the nearest edge of the right-of-way of the interstate or primary highway systems and visible from the main traveled way thereof at any season of the year.

(2) On or after July 1, 2009, no person shall establish or initiate operation of a new salvage yard within 100 feet of the nearest edge of the right-of-way of a state or town road or within 100 feet of a navigable water, as that term is defined in section 1422 of Title 10.

(c) Notwithstanding ~~any provision of this subchapter~~ subsection (b) of this section, ~~junkyards~~ salvage yards and scrap metal processing facilities~~,~~ may be operated within ~~areas adjacent to the interstate and primary highway systems, which are within one thousand feet of the nearest edge of the right-of-way~~ 1,000 feet of the nearest edge of the right-of-way of the interstate and primary highway system or within 100 feet of the nearest edge of the right-of-way of a state or town road, provided ~~they are~~ that the area in which the salvage yard is located is zoned industrial under authority of state law, or if not zoned industrial under authority of state law, ~~are~~ is used for industrial activities as determined by the board with the approval of the United States Secretary of Transportation.

Sec. 12. 24 V.S.A. § 2254 is amended to read:

§ 2254. AESTHETIC, ENVIRONMENTAL, AND COMMUNITY WELFARE CONSIDERATIONS

At the hearing regarding location of the ~~junkyard~~ salvage yard, the legislative body may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued stability and development of the tourist and recreational industry of the state and the general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this ~~connection~~ regard the legislative body may consider collectively the type of road servicing the ~~junkyard~~ salvage yard or from which the ~~junkyard~~ salvage yard may be seen, the natural or artificial barriers protecting the ~~junkyard~~ salvage yard from view, the proximity of the proposed ~~junkyard~~ salvage yard to established tourist and recreational areas or main access routes, thereto, proximity to neighboring residences, groundwater resources, surface waters, wetlands, drinking water supplies, consistency with an adopted town plan, as well as the reasonable availability of other suitable sites for the ~~junkyard~~ salvage yard.

Sec. 13. 24 V.S.A. § 2255 is amended to read:

§ 2255. GRANT OR DENIAL OF APPLICATION; APPEAL

(a) After the hearing the legislative body shall, within ~~two weeks~~ 30 days, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application.

(b) If approved, the certificate of approved location shall be ~~forthwith issued to remain in effect for not less than three nor more than~~ issued for a period not to exceed five years ~~from the following July 1.~~ and shall contain at a minimum the following conditions:

(1) Conditions requiring compliance with the screening and fencing requirements of section 2257 of this title;

(2) Approval shall be personal to the applicant and not assignable;

(3) Conditions that the legislative body deems appropriate to ensure that considerations of section 2254 of this title have been met;

(4) Any other condition that the legislative body deems appropriate to ensure the protection of public health, the environment, or safety or to ensure protection from nuisance conditions; and

(5) A condition requiring a salvage yard established or initiated prior to July 1, 2009 to be setback 100 feet from the nearest edge of a right-of-way of a state or town road or from a navigable water as that term is defined in section

1422 of Title 10, provided that if a salvage yard cannot demonstrate during the application process that it meets the 100 feet setback requirement of this subdivision, a municipality may regulate the salvage yard as a nonconforming use, nonconforming structure, or nonconforming lot under a municipal nonconformity bylaw adopted under section 4412 of this title, provided that no enlargement or further encroachment within a setback required under this subdivision shall be allowed.

(c) Certificates of approval shall be renewed thereafter for successive periods of not ~~less than three nor~~ more than five years upon payment of the renewal fee without hearing, provided all provisions of this subchapter are complied with during the preceding period, and the ~~junkyard~~ salvage yard does not become a public nuisance under the common law.

(d) Any person ~~dissatisfied with the granting or denial of an application~~ may appeal the issuance or denial of a certificate of approved location to the ~~superior court for the county in which the proposed junkyard is located. The court by its order may affirm the action of the legislative body or direct the legislative body to grant or deny the application~~ environmental court within 30 days of the decision. No costs shall be taxed against either party upon such appeal.

Sec. 14. 24 V.S.A § 2257 is amended to read:

§ 2257. SCREENING REQUIREMENTS; FENCING

(a) ~~Junkyards~~ A salvage yard shall be screened by a fence or vegetation which effectively screens it from public view ~~from the highway~~ and which complies with the rules of the secretary relative to the screening and fencing of salvage yards, and shall have a gate which shall be closed~~, except when entering or departing the yard~~ after business hours.

(b) Fences and artificial means used for screening purposes as hereafter provided shall be maintained neatly and in good repair. They shall not be used for advertising signs or other displays which are visible from the main traveled way of a highway or state or town road.

(c) All junk stored or deposited in a ~~junkyard~~ salvage yard shall be kept within the enclosure, except while being transported to or from the ~~junkyard~~ salvage yard. All wrecking or other work on the junk shall be accomplished within the enclosure.

(d) Where the topography, natural growth of timber, or other natural barrier ~~screen~~ screens the ~~junkyard~~ salvage yard from view in part, the ~~agency~~ legislative body shall upon granting the ~~license,~~ certificate of approved location require the applicant to screen only those parts of the ~~junkyard~~ salvage yard not ~~so~~ screened.

~~(c) A junkyard prohibited by section 2253(b) of this title which is lawfully established after July 1, 1969 shall be screened or removed at the time it becomes nonconforming~~ A legislative body may inspect a salvage yard in order to determine compliance with the requirements of this chapter and a certificate of approved location issued under this chapter. A municipality may request that the secretary initiate an enforcement action against a salvage yard for violation of the requirements of this subchapter or statute or regulation within the authority of the secretary.

Sec. 15. 24 V.S.A. § 2261 is amended to read:

§ 2261. APPLICATION

Application for a ~~license to operate, maintain, or establish~~ certificate of registration for a ~~junkyard~~ salvage yard shall be made in writing to the ~~agency~~ secretary upon a form prescribed by ~~it~~ the secretary.

Sec. 16. 24 V.S.A. § 2262 is amended to read:

§ 2262. ELIGIBILITY

The ~~agency~~ secretary shall issue a ~~license if it finds~~ certificate of registration upon finding:

(1) The applicant is able to comply with the provisions of this subchapter.

(2) The applicant has filed a currently valid certificate of approval of location with the ~~agency~~ secretary.

(3) ~~The junkyard will not adversely affect the public health, welfare, or safety and will not constitute a nuisance at common law.~~

~~(4)~~ The applicant has complied with any regulations of the ~~agency~~ secretary issued under section 2243 of this title and with screening or fencing requirements which, under limitations of the surrounding terrain, are capable of feasibly and effectively screening the ~~junkyard~~ salvage yard from view of the main traveled way of all highways.

Sec. 17. 24 V.S.A. § 2264 is amended to read:

~~§ 2264. COMPENSATION~~

~~Notwithstanding that this subchapter is established under the state's police power for the general welfare and public good, just compensation shall be paid to an owner affected for his reasonable and necessary costs incurred for the landscaping or other adequate screening, or the removal, relocation, or disposal of the following junkyards affected by this subchapter:~~

~~(1) Those lawfully in existence on July 1, 1969.~~

~~(2) Those lawfully established after July 1, 1969 but which, because of a change in status of an existing highway, or the establishment, relocation, or change in grade of the highway are brought within the prohibitions of this subchapter.~~

Sec. 18. 24 V.S.A. § 2281 is amended to read:

§ 2281. INJUNCTIVE RELIEF; OTHER REMEDIES

(a) In addition to the penalty in section 2282 of this title, ~~the agency or~~ the legislative body may seek a temporary restraining order, preliminary injunction, or permanent injunction against the establishment, operation, or maintenance of a ~~junkyard~~ salvage yard which is ~~or will be~~ in violation of ~~this act~~ the relevant municipal requirements of this subchapter and may obtain compliance with ~~its orders for screening~~ the relevant municipal requirements of this subchapter and the terms of a certificate of approved location issued under this subchapter by complaint to the ~~superior~~ environmental court for the county in which the ~~junkyard~~ salvage yard is located.

(b) In addition to the penalty in section 2282 of this title, the agency of transportation may seek appropriate injunctive relief in the superior court to enforce the provisions of this subchapter within its regulatory authority.

Sec. 19. 24 V.S.A. § 2283 is amended to read:

§ 2283. APPEALS

After exhausting the right of administrative appeal to the board under section 5(d)(5) of Title 19, a person aggrieved by any order, act or decision of the agency of transportation may appeal to the superior court, and all proceedings shall be de novo. Any person, including the agency of transportation, may appeal to the supreme court from a judgment or ruling of

the superior court. Appeals of acts or decisions of the secretary of natural resources or a legislative body of a municipality under this subchapter shall be appealed to the environmental court under 10 V.S.A. § 8503.

Sec. 20. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes:

* * *

(16) 10 V.S.A. chapter 162, relating to the Texas Low-Level Radioactive Waste Disposal Compact;

(17) 10 V.S.A. § 2625, relating to heavy cutting of timber; ~~and~~

(18) 10 V.S.A. chapter 164, relating to comprehensive mercury management; and

(19) 24 V.S.A. chapter 61, subchapter 10, relating to salvage yards.

Sec. 21. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

* * *

(f) This chapter shall govern all appeals of acts or decisions of the legislative body of a municipality arising under 24 V.S.A. chapter 61, subchapter 10, relating to the municipal certificate of approved location for salvage yards.

Sec. 22. TRANSITION

(a) For facilities holding a license for a junkyard issued prior to the effective date of this act, the license shall remain in effect until the expiration of the license. No rule adopted by the secretary of natural resources shall impose new siting criteria on existing licensed and operating facilities unless the location of a facility creates a threat to public health or the environment or creates a nuisance.

(b) Notwithstanding any other provision of law to the contrary, the functions, authorities, and responsibilities of the agency of transportation regarding the licensing of junkyards are transferred to the agency of natural resources. Any rules adopted by the agency of transportation regarding the licensing and operation of junkyards shall remain in effect as if adopted by the agency of natural resources, and any reference to the agency of transportation

or the transportation board in such rules shall be interpreted to mean the secretary of natural resources or the agency of natural resources.

(c) A municipal ordinance addressing or referring to the term "junkyard" shall be deemed to refer to the term "salvage yard" for the purpose of municipal implementation and enforcement of the requirements of 24 V.S.A. chapter 61, subchapter 10 relating to municipal regulation of salvage yards, provided that at the next revision of the town plan, the municipal ordinance is amended to be consistent with state law.

Sec. 23. AGENCY OF NATURAL RESOURCES REPORT ON THE REGULATION OF SALVAGE YARDS

On or before January 15, 2010, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy and the house committee on fish, wildlife and water resources a proposed program for the regulation and permitting of salvage yards by the agency of natural resources. The report shall include:

(1) A summary of how salvage yards are regulated in the state, including the number of salvage yards licensed by the state; an estimate of the number of unlicensed salvage yards in the state; and the stormwater, groundwater, solid waste, air emission, and other environmental and land use requirements that a salvage yard is required to meet.

(2) A summary of how other New England or northeastern states regulate salvage yards, including whether any states regulate salvage yards under a general permit.

(3) A recommendation of how to regulate all environmental requirements for salvage yards under one agency of natural resources program, including whether the agency recommends the use of a general permit for salvage yards that incorporates stormwater, groundwater, solid waste, air emission, and other environmental and land use requirements.

(4) A recommendation for how to regulate the storing or keeping of salvage motor vehicles for noncommercial purposes, including a threshold number of stored or kept salvage motor vehicles that would trigger a permit or registration requirement.

(5) Environmental standards for the operation of salvage yards, including management practices or requirements for the control of stormwater runoff, control of air emissions, activities in or near wetlands, and activities in close proximity to groundwater resources or potable water supplies.

(6) An estimate of the funding, staffing, and other resources that would be required to implement any regulatory program recommended by the agency under this section.

(7) A recommended source for funding implementation, administration, and enforcement of the program or programs recommended by the agency

under this section, including a recommendation of whether to expand or increase the solid waste franchise tax under 32 V.S.A. § 5952 to apply to salvage yards and whether to require a salvage yard to pay a fee under 3 V.S.A. § 2822(j).

(8) Draft legislation or draft rules that would be required to implement the recommendation under this section for the regulation of salvage yards by the agency of natural resources, including draft legislation to implement the agency's recommendation for funding the regulation of salvage yards.

Sec. 24. AGENCY OF NATURAL RESOURCES STAFF POSITION

The agency of natural resources shall assign at least one staff member employed by the agency as of the effective date of this act to implement and enforce the requirements for salvage yards under 24 V.S.A. chapter 61 and to implement a program under which the agency shall perform a multidisciplinary review of salvage yard compliance with state and federal environmental law.

Sec. 25. REPEAL OF SUNSET OF SCRAP METAL PROCESSOR REQUIREMENTS

Sec. 12 of No. 195 of the Acts of the 2007 Adj. Sess. (2008) (sunset of scrap metal processor requirements for identification of persons selling scrap metal) is repealed.

Sec. 26. 10 V.S.A. § 7106(j) is amended to read:

(j) ~~No later than October 1, 2006, each manufacturer required to label by this section shall certify to the agency that it has developed a labeling plan for its mercury-added products that complies with this section, and that this labeling plan shall be implemented for products offered for final sale, sold at a final sale, or distributed in Vermont after July 1, 2007. The labeling plan shall include detailed descriptions of the products involved and the label size, font size, material, wording, location, and attachment method for each product and for the product packaging. The plan shall include how prior-to-sale notification will be provided, if required. The plan, together with the certification, must be submitted to the agency and the multistate clearinghouse for approval. If a manufacturer has an approved certified labeling plan on file with the agency, the manufacturer must provide an update no later than October 1, 2006 identifying changes, if any, to the product or manufacturer's contact information and shall include all information required in this section. The update must be submitted in writing to the agency and identified as an amendment to the plan. Any changes in labeling methods for products or product categories already approved under the existing plan in order to comply with new labeling requirements must be submitted and reviewed by the agency for approval~~ A manufacturer who offers for final sale, sells at a final sale, or distributes a product subject to the labeling requirements of this section shall

certify to the secretary, on a form provided by the secretary, that the label conforms to the requirements of subsection (d) or (i) of this section.

Sec. 27. 10 V.S.A. § 1672(f) is amended to read:

(f) Nothing in this chapter is intended to limit the authority of the public service board under the provisions on Title 30. ~~The secretary shall solicit the concurrence of the public service board when proposing rules under subdivisions (b)(2) through (5) of this section, as applicable to water companies regulated under Title 30. When the secretary and the public service board concur, the rules shall be adopted jointly.~~

Sec. 28. WATER SUPPLY RULEMAKING

The failure of the secretary to solicit concurrence from the public service board under subsection 1672(f) of Title 10 shall not affect the validity of any rule adopted under chapter 56 of Title 10 prior to July 1, 2009.

Sec. 29. EFFECTIVE DATE

This act shall take effect on July 1, 2009.