

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 595 entitled “An act relating to potable water supplies from
4 surface waters” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended as
6 follows:

7 First: In Sec. 2, 10 V.S.A. § 1981, by striking out subdivision (6) in its
8 entirety and inserting in lieu thereof the following:

9 (6) the applicant or permit holder shall comply with other criteria and
10 requirements adopted by the Secretary by rule for potable water supplies using
11 a surface water as a source.

12 Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof
13 the following:

14 Sec. 4. 10 V.S.A. § 1982 is added to read:

15 § 1982. TESTING OF NEW GROUNDWATER SOURCES

16 (a) As used in this section, “groundwater source” means that portion of a
17 potable water supply that draws water from the ground, including a drilled
18 well, shallow well, driven well point, or spring.

19 (b) Prior to use of a new groundwater source as a potable water supply,
20 where testing is not otherwise required, the person who owns or controls the

1 groundwater source shall test the groundwater source for the parameters set
2 forth in subsection (c) of this section.

3 (c) A water sample collected under this section shall be analyzed for, at a
4 minimum: arsenic; lead; uranium; gross alpha radiation; total coliform
5 bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters
6 required by the Agency by rule. The Agency may require testing for a
7 parameter by region or specific geographic area of concern.

8 (d) The Secretary, after consultation with the Department of Health, the
9 Wastewater and Potable Water Supply Technical Advisory Committee, the
10 Vermont Realtors, the Vermont Association of Professional Home Inspectors,
11 private laboratories, and other interested parties, shall adopt by rule
12 requirements regarding:

13 (1) when, prior to use of a new groundwater source, the test required
14 under subsection (b) of this section shall be conducted;

15 (2) who shall be authorized to sample the source for the test required
16 under subsection (b) of this section, provided that the rule shall include the
17 person who owns or controls the groundwater source and licensed well drillers
18 among those authorized to conduct the test;

19 (3) how a water sample shall be collected in order to comply with the
20 requirements of the analyses to be performed; and

21 (4) any other requirements necessary to implement this section.

1 Sec. 5. 18 V.S.A. § 501b is amended to read:

2 § 501b. CERTIFICATION OF LABORATORIES

3 (a) The ~~commissioner~~ Commissioner may certify a laboratory that meets
4 the standards currently in effect of the National Environmental Laboratory
5 Accreditation Conference and is accredited by an approved National
6 Environmental Laboratory Accreditation Program accrediting authority or its
7 equivalent to perform the testing and monitoring:

8 (1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking
9 Water Act; and

10 (2) of water from a potable water supply, as that term is defined in
11 10 V.S.A. § 1972(6).

12 (b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a
13 certificate granted under this section, after notice and opportunity to be heard,
14 if the ~~commissioner~~ Commissioner finds that the certificate holder has:

15 (A) submitted materially false or materially inaccurate
16 information; or

17 (B) violated any material requirement, restriction, or condition of the
18 certificate; or

19 (C) violated any statute, rule, or order relating to this title.

20 (2) The order shall set forth what steps, if any, may be taken by the
21 certificate holder to relieve the holder of the suspension or enable the

1 certificate holder to reapply for certification if a previous certificate has been
2 revoked.

3 (c) A person may appeal the suspension or revocation of the certificate to
4 the ~~board~~ Board under section 128 of this title.

5 * * *

6 (g) In accrediting a laboratory to conduct testing of potable water supplies
7 under 10 V.S.A. § 1982, the Commissioner shall require a laboratory
8 accredited under this section to submit in an electronic format to the
9 Department of Health and the Agency of Natural Resources the results of
10 groundwater analyses conducted pursuant to 10 V.S.A. § 1982.

11 Sec. 6. 10 V.S.A. § 1283(b) is amended to read:

12 (b) Disbursements under this subsection may be made for emergency
13 purposes or to respond to other than emergency situations; provided, however,
14 that disbursements in response to an individual situation which is not an
15 emergency situation shall not exceed \$100,000.00 for costs attributable to each
16 of the subdivisions of this subsection, unless the Secretary has received the
17 approval of the General Assembly, or the Joint Fiscal Committee, in case the
18 General Assembly is not in session. Furthermore, the balance in the Fund shall
19 not be drawn below the amount of \$100,000.00, except in emergency
20 situations. If the balance of the Fund becomes insufficient to allow a proper
21 response to one or more emergencies that have occurred, the Secretary shall

1 appear before the Emergency Board, as soon as possible, and shall request that
2 necessary funds be provided. Within these limitations, disbursements from the
3 Fund may be made:

4 * * *

5 (7) to pay costs of management oversight provided by the State for
6 investigation and cleanup efforts conducted by voluntary responsible parties
7 ~~where those responsible parties have contributed monies to the Fund pursuant~~
8 ~~to a written agreement under subsection (f) of this section;~~

9 * * *

10 Sec. 7. 10 V.S.A. § 6615c is added to read:

11 § 6615c. INFORMATION REQUESTS

12 (a) When the Secretary has reasonable cause to believe that a person caused
13 or contributed to a release of a hazardous material or illegal disposal of waste,
14 the Secretary, upon reasonable notice, may require the person to furnish
15 information related to:

16 (1) The type, nature, and quantity of any commercial chemical product,
17 hazardous material, or waste that has been or is being used, generated, treated,
18 stored, or disposed of at a facility or transported to a facility.

19 (2) The nature or extent of a release or threatened release of a hazardous
20 material or waste from a facility.

1 (3) Financial information and information surrounding the corporate
2 structure, if any, of a person alleged to have caused or contributed to a release,
3 including information related to the ability of a person to pay for or to perform
4 a cleanup.

5 (b) A person who has received a request under subsection (a) of this section
6 shall, at the discretion of the Secretary, either:

7 (1) grant the Secretary access, at all reasonable times, to any facility,
8 establishment, place, property, or location to inspect and copy all documents or
9 records relating to information that was related to the request; or

10 (2) copy and furnish to the Secretary all such documents or records, at
11 the option and expense of the person.

12 (c) The Secretary may require any person who has or may have knowledge
13 of any information listed in subdivisions (a)(1) through (3) of this section to
14 appear at the offices of the Secretary and may take testimony and require the
15 production of records that relate to a release or threatened release of a
16 hazardous material.

17 (d) Any request for access or information under this section shall be served
18 personally or by certified mail.

19 (e) Trade secret information and confidential business information
20 submitted under this section shall be exempt from public inspection and
21 copying under 1 V.S.A. § 317(c)(9). Financial information submitted under

1 this section shall be exempt from public inspection and copying under 1 V.S.A.
2 § 317(c)(7).

3 (f) As used in this section, “information” means any written or recorded
4 information, including all documents, records, photographs, recordings, e-mail,
5 or correspondence.

6 Sec. 8. 10 V.S.A. § 6615d is added to read:

7 § 6615d. NATURAL RESOURCE DAMAGES

8 The Secretary may assess damages to natural resources against any person
9 found to be liable under section 6615 of this title. The measure of damages
10 that may be assessed under this section includes the cost of restoring injured
11 resources to their baseline condition, compensation for the interim loss of
12 injured resources pending recovery, and any reasonable costs of the Secretary
13 in determining the damage to a natural resource. As used in this section,
14 “natural resources” means public lands, fish, wildlife, biota, air, surface water,
15 groundwater, wetlands, and drinking water supplies.

16 Sec. 9. 10 V.S.A. § 8005(b) is amended to read:

17 (b) Access orders and information requests.

18 (1) A Superior Court judge shall issue an access order when access has
19 been refused and the investigator, by affidavit, describes the property to be
20 examined and identifies:

21 (A) a provision of a permit that authorizes the inspection; or

1 (B) the property as being scheduled for inspection in accordance with
2 a neutral inspection program adopted by the Secretary or the Natural Resources
3 Board; or

4 (C) facts providing reasonable grounds to believe that a violation
5 exists and that an examination of the specifically described property will be of
6 material aid in determining the existence of the violation.

7 (2) A Superior Court shall issue an order requiring compliance with an
8 information request submitted pursuant to section 6615c of this title when:

9 (A) the person served with the request fails to respond to the request
10 in the time frame identified by the Secretary;

11 (B) the Secretary submits, by affidavit, facts providing reasonable
12 grounds that a release or threatened release has taken place; and

13 (C) the information will be of material aid in responding to the
14 release or threatened release.

15 (3) Issuance of an access order shall not negate the Secretary's authority
16 to initiate criminal proceedings in the same matter by referring the matter to
17 the Office of the Attorney General or a State's Attorney.

18 Sec. 10. AGENCY OF NATURAL RESOURCES' REPORT ON TOXIC
19 CHEMICAL USE IN THE STATE

20 (a) On or before December 15, 2016, the Secretary of Natural Resources
21 shall submit to the Senate Committee on Natural Resources and Energy, the

1 House Committee on Natural Resources and Energy, and the House
2 Committee on Fish, Wildlife and Water a report regarding the use or
3 management of toxic chemicals, hazardous materials, and hazardous waste in
4 the State. The report shall include:

5 (1) All information that ANR has collected on the location of sites
6 where toxic substances, hazardous materials, or hazardous waste is used,
7 stored, or managed in the State.

8 (2) All information ANR has on the proximity of sites to public water
9 supplies where toxic substances, hazardous materials, or hazardous waste is
10 used, stored, or managed, and whether and how this information is made
11 available to the public.

12 (3) All information ANR has on the proximity of sites to private wells
13 where toxic substances, hazardous materials, or hazardous waste is used,
14 stored, or managed, and whether and how this information is made available to
15 the public.

16 (4) Any risk assessments that ANR has conducted regarding the threat
17 of contamination of public water supplies, private wells, or groundwater from
18 sites where toxic substances, hazardous materials, or hazardous waste is used,
19 stored, or managed.

20 (5) Any action that ANR has taken or plans to take in response to risk
21 assessments that ANR has conducted regarding the threat of contamination of

1 public water supplies, private wells, or groundwater from sites where toxic
2 substances, hazardous materials, or hazardous waste is used, stored, or
3 managed, including monitoring groundwater quality, testing private wells, and
4 testing public water supplies.

5 (6) Draft legislation that:

6 (A) recommends methods of improving the collection of information
7 regarding the location of sites where toxic substances, hazardous materials, or
8 hazardous waste is used, stored, or managed and linking the location of such
9 sites to the threat of contamination of public water supplies, private wells, or
10 groundwater;

11 (B) proposes toxic substances, hazardous materials, or hazardous
12 waste that should be added to the list of substances currently reported to
13 ANR; and

14 (C) proposes a method for funding private well testing or premium
15 groundwater mapping in areas where a risk assessment indicates there is a high
16 risk of contamination.

17 (b) The Secretary shall consult with or collaborate with interested parties
18 regarding the development of the report required by this section. Parties that
19 the Secretary shall collaborate or consult with shall include the Vermont
20 League of Cities and Towns, the regional planning commissions, the
21 Wastewater and Potable Water Supply Technical Advisory Committee,

1 Vermonters for a Clean Environment, the Vermont Natural Resources Council,
2 Vermont Public Interest Research Group, and the Associated Industries of
3 Vermont.

4 Sec. 11. EFFECTIVE DATES

5 (a) This section and Secs. 1–3 (surface water source; potable water supply),
6 5 (certification of laboratories), 6 (Environmental Contingency Fund), 7 (ANR
7 information requests), 8 (natural resources damages), 9 (ANR enforcement),
8 and 10 (ANR toxic chemical report) shall take effect on passage.

9 (b) Sec. 4 (testing of new groundwater sources) shall take effect on
10 passage, except that 10 V.S.A. § 1982(b) (the requirement to test new
11 groundwater sources) shall take effect on January 1, 2017.

12

13

14 (Committee vote: _____)

15

16

Senator _____

17

FOR THE COMMITTEE