

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was  
3 referred House Bill No. 560 entitled “An act relating to household products  
4 containing hazardous substances” respectfully reports that it has considered the  
5 same and recommends that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Thousands of household products sold in the State contain  
10 substances designated as hazardous under State or federal law.

11 (2) Vermont’s hazardous waste regulations establish specific  
12 requirements for the management of hazardous waste, including a prohibition  
13 on disposal in landfills.

14 (3) Leftover household products, known as household hazardous waste  
15 (HHW), are regulated through a requirement that municipal solid waste  
16 management entities (SWMEs) include provisions in solid waste  
17 implementation plans for the management and diversion of unregulated  
18 hazardous waste. The State solid waste management plan also will require the  
19 SWMEs to each hold four HHW collection events every year.

1           (4) Many SWMEs already offer more than four HHW collection events  
2           each year, and five of the SWMEs have established permanent facilities for the  
3           regular collection of HHW.

4           (5) HHW collection events or permanent facilities are expensive to  
5           operate, and SWMEs spend approximately \$1.6 million a year to manage  
6           HHW, costs that are subsequently passed on to the residents of Vermont  
7           through taxes or disposal charges.

8           (6) As a result of the failure to divert HHW, it is estimated that 640 tons  
9           or more per year of HHW are being disposed of in landfills.

10           (7) There is general agreement among the SWMEs and the Agency of  
11           Natural Resources that additional collection sites and educational and  
12           informational activities are necessary to capture more of the HHW being  
13           disposed of in landfills.

14           (8) Funding constraints are a current barrier to new collection sites and  
15           educational and informational activities.

16           (9) HHW released into the environment can contaminate air,  
17           groundwater, and surface waters, thereby posing a significant threat to the  
18           environment and public health.

19           (10) To improve diversion of HHW from landfills, reduce the financial  
20           burden on SWMEs and taxpayers of managing HHW, and lessen the  
21           environmental and public health risk posed by improperly disposed of HHW,

1 the State should require manufacturers of household products containing  
2 hazardous substances to participate in stewardship organizations that provide  
3 for the collection and end-of-life management of discarded household products  
4 containing hazardous substances.

5 Sec. 2. 10 V.S.A. chapter 164B is added to read:

6 CHAPTER 164B. COLLECTION AND MANAGEMENT OF HOUSEHOLD

7 HAZARDOUS PRODUCTS

8 § 7181. DEFINITIONS

9 As used in this chapter:

10 (1) “Agency” means the Agency of Natural Resources.

11 (2) “Consumer product” means any product that is regularly used or  
12 purchased to be used for personal, family, or household purposes.

13 (3)(A) “Covered household hazardous product” means a consumer  
14 product offered for retail sale that is contained in the receptacle in which the  
15 product is offered for retail sale, if the product has any of the following  
16 characteristics:

17 (i) The physical properties of the product meet the criteria for  
18 characteristic wastes under the federal Resource Conservation and Recovery  
19 Act of 1976, Pub. L. No. 94-580, as amended, including ignitability,  
20 corrosivity, reactivity or toxicity as defined in 40 C.F.R. §§ 261.20-261.24.

1           (ii) The physical properties of the product meet the criteria for  
2           designation as a class 2, 3, 4, 5, 6, or 8 hazardous material, as defined in  
3           49 C.F.R. part 173, by the U.S. Department of Transportation under the  
4           Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 5101-5128, as  
5           amended.

6           (iii) The product is a marine pollutant as defined in 49 C.F.R.  
7           § 171.8.

8           (iv) The product is a hazardous waste under chapter 159 of this  
9           title or rules adopted under that chapter.

10           (B) “Covered product” does not mean:

11           (i) A primary battery or rechargeable battery.

12           (ii) A lamp that contains mercury.

13           (iii) A thermostat that contains mercury.

14           (iv) Architectural paint as that term is defined in section 6672 of  
15           this chapter.

16           (v) Covered electronic devices as that term is defined in section  
17           7551 of this title.

18           (iv) A pharmaceutical drug.

19           (v) A pesticide regulated by the Secretary of Agriculture, Food  
20           and Markets.

1                    (vi) Products that are intended to be rubbed, poured, sprinkled on,  
2 sprayed on, introduced into, or otherwise applied to the human body or any  
3 part of a human for cleansing, moisturizing, sun protection, beautifying,  
4 promoting attractiveness, or altering appearance, unless designated as a  
5 hazardous material or a hazardous waste by the Secretary of Natural  
6 Resources.

7                    (4) “Covered entity” means any person who presents to a collection  
8 facility that is included in an approved plan any number of covered household  
9 hazardous products.

10                    (5) “Manufacturer” means a person who:

11                    (A) manufactures or manufactured a covered household hazardous  
12 product under its own brand or label for sale in the State;

13                    (B) sells in the State under its own brand or label a covered  
14 household hazardous product produced by another supplier;

15                    (C) owns a brand that it licenses or licensed to another person for use  
16 on a covered household hazardous product sold in the State;

17                    (D) imports into the United States for sale in the State a covered  
18 household hazardous product manufactured by a person without a presence in  
19 the United States;

20                    (E) manufactures a covered household hazardous product for sale in  
21 the State without affixing a brand name; or

1           (F) assumes the responsibilities, obligations, and liabilities of a  
2           manufacturer as defined under subdivisions (A) through (E) of this subdivision  
3           (5), provided that the Secretary may enforce the requirements of this chapter  
4           against a manufacturer defined under subdivisions (A) through (E) of this  
5           subdivision (5) if a person who assumes the manufacturer’s responsibilities  
6           fails to comply with the requirements of this chapter.

7           (6) “Program year” means the period from January 1 through December  
8           31.

9           (7) “Retailer” means a person who sells a covered household hazardous  
10           product in the State through any means, including a sales outlet, a catalogue,  
11           the telephone, the Internet, or any electronic means.

12           (8) “Secretary” means the Secretary of Natural Resources.

13           (9) “Sell” or “sale” means any transfer for consideration of title or of the  
14           right to use by lease or sales contract a covered household hazardous product  
15           to a person in the State of Vermont. “Sell” or “sale” does not include the sale,  
16           resale, lease, or transfer of a used covered household hazardous product or a  
17           manufacturer’s wholesale transaction with a distributor or a retailer.

18           (10) “Stewardship organization” means an organization, association, or  
19           entity that has developed a system, method, or other mechanism that assumes  
20           the responsibilities, obligations, and liabilities under this chapter of multiple  
21           manufacturers of covered household hazardous products.

1     § 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT:

2             STEWARDSHIP ORGANIZATION REGISTRATION

3             (a) Sale prohibited. Beginning on January 1, 2020, except as set forth  
4             under section 7188 of this title, a manufacturer of a covered household  
5             hazardous product shall not sell, offer for sale, or deliver to a retailer for  
6             subsequent sale a covered household hazardous product unless all the  
7             following have been met:

8                 (1) The manufacturer is participating in a stewardship organization  
9                 implementing an approved collection plan.

10                (2) The name of the manufacturer, the manufacturer's brand, and the  
11                name of the covered household hazardous product are submitted to the Agency  
12                of Natural Resources by a stewardship organization and listed on the  
13                stewardship organization's website as covered by an approved plan.

14                (3) The stewardship organization in which the manufacturer participates  
15                has submitted an annual report under section 7185 of this title.

16                (4) The stewardship organization in which the manufacturer participates  
17                has conducted a plan audit consistent with the requirements of subsection  
18                7185(b) of this title.

19             (b) Stewardship organization registration requirements.

20                (1) Beginning on January 1, 2019 and annually thereafter, a stewardship  
21                organization shall file a registration form with the Secretary. The Secretary

1 shall provide the registration form to a stewardship organization. The  
2 registration form shall include:

3 (A) a list of the manufacturers participating in the stewardship  
4 organization;

5 (B) a list of the brands of each manufacturer participating in the  
6 stewardship organization;

7 (C) a list of the covered household hazardous products of each  
8 manufacturer participating in the stewardship organization;

9 (D) the name, address, and contact information of a person  
10 responsible for ensuring the manufacturer's compliance with this chapter;

11 (E) a description of how the stewardship organization meets the  
12 requirements of subsection 7184(b) of this title, including any reasonable  
13 requirements for participation in the stewardship organization; and

14 (F) the name, address, and contact information of a person for a  
15 nonmember manufacturer to contact regarding how to participate in the  
16 stewardship organization to satisfy the requirements of this chapter.

17 (2) A renewal of a registration without changes may be accomplished  
18 through notifying the Agency of Natural Resources on a form provided by the  
19 Agency.



1     § 7183. COLLECTION PLANS

2           (a) Collection plan required. Prior to July 1, 2019, a stewardship  
3     organization representing manufacturers of covered household hazardous  
4     products shall submit a collection plan to the Secretary for review.

5           (b) Collection plan; minimum requirements. Each stewardship plan shall  
6     include, at a minimum, all of the following requirements:

7           (1) A list of the manufacturers, brands, and products participating in  
8     the plan and a methodology for adding and removing manufacturers and  
9     notifying the Agency of new participants.

10          (2) Free collection of covered household hazardous product. The  
11     collection program shall provide for free collection from covered entities of  
12     covered household hazardous products. A stewardship organization shall  
13     accept all covered household hazardous products collected from a covered  
14     entity and shall not refuse the collection of a covered household  
15     product based on the brand or manufacturer of the covered household  
16     hazardous product. The collection program shall also provide for the payment  
17     of collection, processing, and end-of-life management of the covered  
18     household hazardous product. Collection costs include facility and equipment  
19     costs, maintenance, and labor.

20          (3) Convenient collection location. The stewardship organization shall  
21     develop a collection program that:

1           (A) allows all municipal collection locations to opt to be a collection  
2 facility;

3           (B) at a minimum, has not less than one collection facility in each  
4 county, provided that stewardship organizations shall have until July 1, 2022 to  
5 establish permanent collection facilities in counties that currently lack a  
6 facility. Prior to establishment of a permanent collection facility in a county  
7 that currently lacks a facility, the stewardship organization shall hold at least  
8 four collection events per year for the collection of covered household  
9 hazardous products; and.

10           (C) maintains the current level of convenience provided by facilities  
11 in operation prior to July 1, 2019 that are identified as collection facilities  
12 under the plan.

13           (4) Public education and outreach. The collection plan shall include an  
14 education and outreach program that may include media advertising, retail  
15 displays, articles in trade and other journals and publications, and other public  
16 educational efforts. The education and outreach program shall include a  
17 website to notify the public of the following:

18           (A) that there is a free collection program for covered household  
19 hazardous products;

20           (B) the location and hours of operation of collection points and how a  
21 covered entity can access this collection program;

1           (C) the special handling considerations associated with covered  
2 household hazardous products; and

3           (D) source reduction information for consumers to reduce leftover  
4 covered household products.

5           (5) Compliance with appropriate environmental standards. In  
6 implementing a collection plan, a stewardship organization shall comply with  
7 all applicable laws related to the collection, transportation, and disposal of  
8 hazardous waste. A stewardship organization shall comply with any special  
9 handling or disposal standards established by the Secretary for covered  
10 household hazardous products or for the collection plan of the manufacturer.

11           (6) Method of disposition. The plan shall describe how covered  
12 household hazardous products will be managed in the most environmentally  
13 and economically sound manner, including following the waste-management  
14 hierarchy. The management of covered household hazardous products under  
15 the plan shall use management activities that promote source reduction, reuse,  
16 recycling, energy recovery, and disposal. Collected covered household  
17 hazardous products shall be recycled when technically and economically  
18 feasible.

19           (7) Roles and responsibilities. A Stewardship plan shall list all key  
20 participants in the covered household hazardous products collection chain,  
21 including;

1           (A) the name and location of the collection facilities accepting covered  
2           household hazardous products under the plan and the address ad contact  
3           information for each facility;

4           (B) the name and contact information of the contractor responsible for  
5           transporting the covered household hazardous products; and

6           (C) the name and address of the recycling and disposal facilities where  
7           the covered household hazardous products collected are deposited.

8           (8) Performance goal; participation rate. A stewardship plan shall  
9           include a collection performance goal for covered household hazardous  
10           products based on the participation rate determined by the number of total  
11           participants in the collection plan during a program year divided by the total  
12           number of households in the State. If a stewardship organization does not  
13           meet its performance goal, the Secretary may require the stewardship  
14           organization to revise the collection plan to provide for one or more of the  
15           following additional public education and outreach, additional collection  
16           events, or additional hours of operation for collection sites.

17           (9) Plan funding. The plan shall describe how the stewardship  
18           organization will fund the implementation of the plan and collection under the  
19           plan including the costs for education and outreach, collection, processing, and  
20           end-of-life management of the covered household hazardous product.  
21           Collection costs include facility and equipment costs, maintenance, and labor.

1 The plan must include how municipalities will be compensated for all costs  
2 associated with collection of covered household hazardous products.

3 (c) Term of collection plan. A collection plan approved by the Secretary  
4 under section 7187 of this title shall have a term not to exceed five years,  
5 provided that the manufacturer remains in compliance with the requirements of  
6 this chapter and the terms of the approved plan.

7 (d) Plan implementation. A stewardship organization shall implement a  
8 collection by no later than January 1, 2020.

9 § 7184. STEWARDSHIP ORGANIZATIONS

10 (a) Participation in a stewardship organization. A manufacturer shall meet  
11 the requirements of this chapter by participating in a stewardship organization  
12 that undertakes the responsibilities under sections 7182, 7183, and 7185 of this  
13 title.

14 (b) Qualifications for a stewardship organization. To qualify as a  
15 stewardship organization under this chapter, an organization shall:

16 (1) commit to assume the responsibilities, obligations, and liabilities of  
17 all manufacturers participating in the stewardship organization;

18 (2) not create unreasonable barriers for participation in the stewardship  
19 organization; and

1           (3) maintain a public website that lists all manufacturers and  
2           manufacturers' brands and products covered by the stewardship organization's  
3           approved collection plan.

4           § 7185. ANNUAL REPORT; PLAN AUDIT

5           (a) Annual report. On or before March 1, 2021, and annually thereafter, a  
6           stewardship organization of manufacturers of covered household hazardous  
7           products shall submit an annual report to the Secretary that contains all of the  
8           following:

9                   (1) A description of the collection program.

10                   (2) The volume or weight by hazard category of covered household  
11                   hazardous products collected, the disposition of the collected covered  
12                   household hazardous products, and the number of covered entities participating  
13                   at each collection facility or collection event from which the covered  
14                   household hazardous products were collected.

15                   (3) An estimate of the weight or volume by hazard category of covered  
16                   household hazardous products sold in the State in the previous calendar year  
17                   by manufacturer participating in stewardship organization's collection plan.

18           Sales data and other confidential business information provided under this  
19           section shall be exempt from public inspection and copying under the Public  
20           Records Act and shall be kept confidential. Confidential information shall be  
21           redacted from any final public report.

1           (4) A comparison of the plan’s participation rate compared to actual  
2 participation rate and how the program will be improved if the participation  
3 rate goal was not met.

4           (5) A description of the methods used to reduce, reuse, collect, transport,  
5 recycle and process the covered household hazardous products.

6           (6) The cost of implementing the stewardship plan including the costs of  
7 administration, collection, transportation, recycling, disposal and education and  
8 outreach.

9           (7) A description and evaluation of the success of the education and  
10 outreach materials.

11           (8) Recommendations for any changes to the program.

12           (b) Plan audit. On or before March 1, 2025 and every five years thereafter,  
13 a stewardship organization of manufacturers of covered household hazardous  
14 products shall hire an independent third party to audit the plan and the plan’s  
15 operation. The auditor shall examine the effectiveness of the program in  
16 collecting and disposing of covered household hazardous products. The  
17 auditor shall examine the cost-effectiveness of the program and compare it to  
18 that of collection programs for covered household hazardous products in other  
19 jurisdictions. The auditor shall make recommendations to the Secretary on  
20 ways to increase the program’s efficacy and cost-effectiveness.

1           (c) Public posting. A stewardship organizations shall post a report or audit  
2           required under this section to the website of the stewardship organization.

3           § 7186. ANTITRUST; CONDUCT AUTHORIZED

4           (a) Activity authorized. A manufacturer, group of manufacturers, or  
5           stewardship organization implementing or participating in an approved  
6           stewardship plan under this chapter for the collection, transport, processing,  
7           and end-of-life management of covered household hazardous products is  
8           individually or jointly immune from liability for conduct under State laws  
9           relating to antitrust, restraint of trade, unfair trade practices, and other  
10           regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1, to  
11           the extent that the conduct is reasonably necessary to plan, implement, and  
12           comply with the stewardship organization's chosen system for managing  
13           discarded covered household hazardous products.

14           (b) Limitations on antitrust activity. Subsection (a) of this section shall not  
15           apply to an agreement among producers, groups of manufacturers, retailers,  
16           wholesalers, or stewardship organizations affecting the price of covered  
17           household hazardous product or any agreement restricting the geographic area  
18           in which or customers to whom covered household hazardous product shall  
19           be sold.

20           § 7187. AGENCY RESPONSIBILITIES



1        (a) Review and approve collection plans. The Secretary shall review and  
2        approve or deny collection plans submitted under section 7183 of this title.

3        The Secretary shall approve a collection plan if the Secretary finds that the  
4        plan:

5            (1) complies with the requirements of subsection 7183(a) of this title.

6            (2) provides adequate notice to the public of the collection opportunities  
7        available for covered household hazardous products.

8            (3) ensures that collection of covered household hazardous products will  
9        occur in an environmentally sound fashion that is consistent with the law or  
10       with any special handling requirements adopted by the Secretary.

11           (4) promotes the collection and disposal of covered household  
12       hazardous products.

13        (b) Plan amendment. The Secretary, in his or her discretion or at the  
14        request of a manufacturer or a stewardship organization, may require a  
15        stewardship organization to amend an approved plan. Plan amendments shall  
16        be subject to the public input provisions of subsection (c) of this section.

17        (c) Public input. The Secretary shall establish a process under which a  
18        collection plan for covered household hazardous products is available for  
19        public review and comment for 30 days prior to plan approval or amendment.  
20        In establishing such a process, the Secretary shall consult with interested

1 persons, including manufacturers, environmental groups, wholesalers, retailers,  
2 municipalities, and solid waste districts.

3 (d) Registrations. The Secretary shall accept, review, and approve or deny  
4 registrations required by this chapter. The Secretary may revoke a registration  
5 of a stewardship organization for actions that are unreasonable, unnecessary, or  
6 contrary to the requirements or the policy of this chapter.

7 (e) Supervisory capacity. The Secretary shall act in a supervisory capacity  
8 over the actions of a stewardship organization registered under this section. In  
9 acting in this capacity, the Secretary shall review the actions of the stewardship  
10 organization to ensure that they are reasonable, necessary, and limited to  
11 carrying out requirements of and policy established by this chapter.

12 (f) Special handling requirements. The Secretary may adopt, by rule,  
13 special handling requirements for the collection, transport, and disposal of  
14 covered household hazardous products.

15 § 7188. RETAILER OBLIGATIONS

16 (a) Sale prohibited. Except as set forth under subsection (b) of this section,  
17 beginning on January 1, 2020, no retailer shall sell or offer for sale a covered  
18 household hazardous product unless the retailer has reviewed the stewardship  
19 organization website required in subsection 7184(b) of this title to determine  
20 that the manufacturer of the covered household hazardous product is

1 implementing an approved collection plan or is a member of a stewardship  
2 organization.

3 (b) Inventory exception; expiration or revocation of manufacturer  
4 registration. A retailer shall not be responsible for an unlawful sale of a  
5 covered household hazardous product under this subsection if:

6 (1) the retailer purchased the covered household hazardous product prior  
7 to January 1, 2020; or

8 (2) the manufacturer's collection plan expired or was revoked, and the  
9 retailer took possession of the in-store inventory of covered household  
10 hazardous product prior to the expiration or revocation of the manufacturer's  
11 collection plan.

12 § 7189. OTHER DISPOSAL PROGRAMS

13 A municipality or other public agency shall not require covered entities to  
14 use public facilities to dispose of covered household hazardous products to the  
15 exclusion of other lawful programs available. A municipality and other public  
16 agencies are encouraged to work with manufacturers to assist them in meeting  
17 their collection and disposal obligations under this chapter. Nothing in this  
18 chapter prohibits or restricts the operation of any program collecting and  
19 disposing of covered household hazardous products in addition to those  
20 provided by manufacturers or prohibits or restricts any persons from receiving.

1 collecting, transporting, or disposing of covered household hazardous products,  
2 provided that all other applicable laws are met.

3 § 7190. RULEMAKING

4 The Secretary of Natural Resources may adopt rules to implement the  
5 requirements of this chapter.

6 Sec. 3. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF  
7 REGISTRATION FEE FOR COVERED HOUSEHOLD  
8 HAZARDOUS PRODUCTS

9 On or before January 15, 2020, the Secretary of Natural Resources shall  
10 submit to the House Committees on Ways and Means and on Natural  
11 Resources, Fish, and Wildlife and the Senate Committees on Finance and on  
12 Natural Resources and Energy a recommended fee for the registration of  
13 stewardship organizations under the covered household hazardous product  
14 program under 10 V.S.A. chapter 164B.

15 Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

16 (a) In accordance with the following schedule, no person shall knowingly  
17 dispose of the following materials in solid waste or in landfills:

18 \* \* \*

19 (5) Paint (, whether ~~water-based~~ water-based or ~~oil-based~~), oil-based;  
20 paint thinner; paint remover; stains; and varnishes. This prohibition shall not  
21 apply to solidified ~~water-based~~ water-based paint in quantities of less than one

1 gallon, nor shall this prohibition apply to solidified ~~water-based~~ water-based  
2 paint in quantities greater than one gallon if those larger quantities are from a  
3 waste stream that has been subject to an effective paint reuse program, as  
4 determined by the Secretary.

5 (6) Nickel-cadmium batteries, small sealed lead acid batteries,  
6 nonconsumer mercuric oxide batteries, and any other battery added by the  
7 Secretary by rule.

8 \* \* \*

9 (8) Banned electronic devices. After January 1, 2011: computers;  
10 peripherals; computer monitors; cathode ray tubes; televisions; printers;  
11 personal electronics such as personal digital assistants and personal music  
12 players; electronic game consoles; printers; fax machines; wireless telephones;  
13 telephones; answering machines; videocassette recorders; digital versatile disc  
14 players; digital converter boxes; stereo equipment; and power supply cords (,  
15 as used to charge electronic devices).

16 \* \* \*

17 (12) Covered household hazardous products after January 1, 2020.

18 Sec. 5. 10 V.S.A. § 8003 is amended to read:

19 § 8003. APPLICABILITY

20 (a) The Secretary may take action under this chapter to enforce the  
21 following statutes and rules, permits, assurances, or orders implementing the

1 following statutes, and the Board may take such action with respect to  
2 subdivision (10) of this subsection:

3 \* \* \*

4 (27) 10 V.S.A. chapter 123, relating to threatened and endangered  
5 species; ~~and~~

6 (28) 30 V.S.A. § 255, relating to regional coordination to reduce  
7 greenhouse gases; and

8 (29) 10 V.S.A. chapter 164B, relating to collection and management of  
9 covered household hazardous products.

10 \* \* \*

11 Sec. 6. 10 V.S.A. § 8503 is amended to read:

12 § 8503. APPLICABILITY

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

17 (1) The following provisions of this title:

18 \* \* \*

19 (U) chapter 168 (product stewardship for primary batteries and  
20 rechargeable batteries);

