

1 S.168

2 Introduced by Senators Bray, Balint, Campion, Lyons, McCormack and

3 Pollina

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; hazardous waste; consumer products;

7 household products containing hazardous substances

8 Statement of purpose of bill as introduced: This program would require that  
9 manufacturers of household products containing a hazardous substance to  
10 participate in a stewardship organization and implement a plan to collect  
11 household products containing a hazardous substance free of charge to the  
12 public.

13 An act relating to household products containing hazardous substances

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

15 Sec. 1. FINDINGS

16 The General Assembly finds that:

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

1           (2) Vermont's hazardous waste rules establish specific requirements for  
2           the management of hazardous waste, including a prohibition on disposal in  
3           landfills.

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

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

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

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

19           (7) There is general agreement among the SWMEs and the Agency of  
20           Natural Resources that additional collection sites and educational and

1 informational activities are necessary to capture more of the HHW being  
2 disposed of in landfills.

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

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

8 (10) To improve diversion of HHW from landfills, reduce the financial  
9 burden on SWMEs and taxpayers, reduce the cost of the overall system of  
10 managing HHW, and lessen the environmental and public health risk posed by  
11 improperly disposed of HHW, the State shall implement a program to require  
12 the manufacturers of household products containing a hazardous substance to  
13 implement a stewardship organization to collect household products containing  
14 a hazardous substance free of charge to the public.

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

16 CHAPTER 164B. COLLECTION AND MANAGEMENT OF  
17 HOUSEHOLD HAZARDOUS PRODUCTS

18 § 7181. DEFINITIONS

19 As used in this chapter:

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

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

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

6           (4)(A) “Covered household hazardous product” means a consumer  
7           product offered for retail sale that is contained in the receptacle in which the  
8           product is offered for retail sale, if the product has any of the following  
9           characteristics:

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

14           (ii) The physical properties of the product meet the criteria for  
15           designation as a class 2, 3, 4, 5, 6, or 8 hazardous material, as defined in  
16           49 C.F.R. part 173, by the U.S. Department of Transportation under the  
17           Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 5101–5128, as  
18           amended.

19           (iii) The product is a marine pollutant as defined in 49 C.F.R.  
20           § 171.8.

1                    (iv) The product meets the criteria for hazardous waste code VT02  
2                    or VT08 as set forth in section 7-211 of the Vermont Hazardous Waste  
3                    Management Regulations.

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

5                    (i) A primary battery or rechargeable battery.

6                    (ii) A lamp that contains mercury.

7                    (iii) A thermostat that contains mercury.

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

10                   (v) A covered electronic device as that term is defined in section  
11                   7551 of this title.

12                   (vi) A pharmaceutical drug.

13                   (vii) A pesticide regulated by the Secretary of Agriculture, Food  
14                   and Markets.

15                   (5)(A) “Manufacturer” means a person who:

16                   (i) manufactures or manufactured a covered household hazardous  
17                   product under its own brand or label for sale in the State;

18                   (ii) sells in the State under its own brand or label a covered  
19                   household hazardous product produced by another supplier;

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

1           (iv) imports into the United States for sale in the State a covered  
2           household hazardous product manufactured by a person without a presence in  
3           the United States;

4           (v) manufactures a covered household hazardous product for sale  
5           in the State without affixing a brand name; or

6           (vi) assumes the responsibilities, obligations, and liabilities of a  
7           manufacturer as defined under subdivisions (i) through (v) of this subdivision  
8           (5)(A), provided that the Secretary may enforce the requirements of this  
9           chapter against a manufacturer defined under subdivisions (i) through (v) of  
10           this subdivision (5)(A) if a person who assumes the manufacturer's  
11           responsibilities fails to comply with the requirements of this chapter.

12           (B) "Manufacturer" shall not mean a person set forth under  
13           subdivisions (i) through (vi) of subdivision (5)(A) of this section if the person  
14           manufacturers, sells, licenses, or imports less than \$5,000.00 of covered  
15           products in a program year.

16           (6) "Program year" means the period from January 1 through  
17           December 31.

18           (7) "Retailer" means a person who sells a covered household hazardous  
19           product in the State through any means, including a sales outlet, a catalogue,  
20           the telephone, the Internet, or any electronic means.

21           (8) "Secretary" means the Secretary of Natural Resources.

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

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

10           § 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT;

11                   STEWARDSHIP ORGANIZATION REGISTRATION

12           (a) Sale prohibited. Beginning on January 1, 2022, except as set forth  
13           under section 7188 of this title, a manufacturer of a covered household  
14           hazardous product shall not sell, offer for sale, or deliver to a retailer for  
15           subsequent sale a covered household hazardous product unless all the  
16           following have been met:

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

19                   (2) The name of the manufacturer, the manufacturer’s brand, and the  
20                   name of the covered household hazardous product are submitted to the Agency

1 of Natural Resources by a stewardship organization and listed on the  
2 stewardship organization's website as covered by an approved collection plan.

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

5 (4) The stewardship organization in which the manufacturer participates  
6 has conducted a plan audit consistent with the requirements of subsection  
7 7185(b) of this title.

8 (b) Stewardship organization registration requirements.

9 (1) Beginning on January 1, 2021 and annually thereafter, a stewardship  
10 organization shall file a registration form with the Secretary. The Secretary  
11 shall provide the registration form to a stewardship organization. The  
12 registration form shall include:

13 (A) a list of the manufacturers participating in the stewardship  
14 organization;

15 (B) a list of the brands of each manufacturer participating in the  
16 stewardship organization;

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

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



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

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

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

10       § 7183. COLLECTION PLANS

11       (a) Collection plan required. Prior to July 1, 2021, a stewardship  
12       organization representing manufacturers of covered household hazardous  
13       products shall submit a collection plan to the Secretary for review.

14       (b) Collection plan; minimum requirements. Each collection plan shall  
15       include, at a minimum, all of the following requirements:

16           (1) A list of the manufacturers, brands, and products participating in  
17           the collection plan and a methodology for adding and removing manufacturers  
18           and notifying the Agency of new participants.

19           (2) Free collection of covered household hazardous products. The  
20           collection program shall provide for free collection from covered entities of  
21           covered household hazardous products. A stewardship organization shall

1 accept all covered household hazardous products collected from a covered  
2 entity and shall not refuse the collection of a covered household hazardous  
3 product based on the brand or manufacturer of the covered household  
4 hazardous product. The collection program shall also provide for the payment  
5 of collection, processing, and end-of-life management of the covered  
6 household hazardous product. Collection costs include facility and equipment  
7 costs, facility set up fees, facility maintenance, and labor.

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

10 (A) allows all municipal collection programs and facilities to opt to  
11 be part of a collection plan;

12 (B) at a minimum, has not less than one permanent collection  
13 program in each county, provided that stewardship organizations shall have  
14 until July 1, 2024 to establish permanent collection programs in counties that  
15 currently lack a program. Permanent collection programs shall provide year-  
16 round access and maintain hours that adequately serve the public. Prior to  
17 establishment of a permanent collection program in a county that currently  
18 lacks a program, the stewardship organization shall hold at least four collection  
19 events per year for the collection of covered household hazardous products;  
20 and

1           (C) maintains the current level of convenience, including hours and  
2           days available to the public, provided by programs in operation prior to July 1,  
3           2021.

4           (4) Public education and outreach. The collection plan shall include an  
5           education and outreach program that will include a website and may include  
6           media advertising, retail displays, articles in trade and other journals and  
7           publications, and other public educational efforts. The education and outreach  
8           program and website shall notify the public of the following:

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

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

13                  (C) the special handling considerations associated with covered  
14                  household hazardous products; and

15                  (D) source reduction information for consumers to reduce leftover  
16                  covered household products.

17           (5) Compliance with appropriate environmental standards. In  
18           implementing a collection plan, a stewardship organization shall comply with  
19           all applicable laws related to the collection, transportation, and disposal of  
20           hazardous waste. A stewardship organization shall comply with any special

1 handling or disposal standards established by the Secretary for covered  
2 household hazardous products or for the collection plan of the manufacturer.

3 (6) Method of disposition. The collection plan shall describe how  
4 covered household hazardous products will be managed in the most  
5 environmentally and economically sound manner, including following the  
6 waste-management hierarchy. The management of covered household  
7 hazardous products under the collection plan shall use management activities  
8 that promote source reduction, reuse, recycling, energy recovery, and disposal.  
9 Collected covered household hazardous products shall be recycled when  
10 technically and economically feasible.

11 (7) Roles and responsibilities. A collection plan shall list all key  
12 participants in the covered household hazardous products collection chain,  
13 including:

14 (A) the name and location of the collection facilities accepting  
15 covered household hazardous products under the collection plan and the  
16 address and contact information for each facility;

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

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

1           (8) Participation rate. A collection plan shall include a collection  
2           participation rate as a performance goal for covered household hazardous  
3           products based on the participation rate determined by the number of total  
4           participants in the collection plan during a program year divided by the total  
5           number of households in the State. If a stewardship organization does not  
6           meet its participation rate, the Secretary may require the stewardship  
7           organization to revise the collection plan to provide for one or more of the  
8           following: additional public education and outreach, additional collection  
9           events, or additional hours of operation for collection sites.

10           (9) Collection plan funding. The collection plan shall describe how the  
11           stewardship organization will fund the implementation of the collection plan  
12           and collection activities under the plan, including the costs for education and  
13           outreach, collection, processing, and end-of-life management of the covered  
14           household hazardous product. Collection costs include facility and equipment  
15           costs, maintenance, and labor. The collection plan must include how  
16           municipalities will be compensated for all costs associated with collection of  
17           covered household hazardous products.

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

1        (d) Collection plan implementation. A stewardship organization shall  
2        implement a collection plan by no later than January 1, 2022.

3        § 7184. STEWARDSHIP ORGANIZATIONS

4        (a) Participation in a stewardship organization. A manufacturer shall meet  
5        the requirements of this chapter by participating in a stewardship organization  
6        that undertakes the responsibilities under sections 7182, 7183, and 7185 of this  
7        title.

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

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

12        (2) not create unreasonable barriers for participation in the stewardship  
13        organization; and

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

17        § 7185. ANNUAL REPORT; COLLECTION PLAN AUDIT

18        (a) Annual report. On or before March 1, 2023, and annually thereafter, a  
19        stewardship organization of manufacturers of covered household hazardous  
20        products shall submit a report to the Secretary that contains all of the  
21        following:

1           (1) A description of the collection program.

2           (2) The volume or weight by hazard category of covered household  
3 hazardous products collected, the disposition of the collected covered  
4 household hazardous products, and the number of covered entities participating  
5 at each collection facility or collection event from which the covered  
6 household hazardous products were collected.

7           (3) An estimate of the weight or volume by hazard category of covered  
8 household hazardous products sold in the State in the previous calendar year  
9 by manufacturer participating in stewardship organization's collection plan.  
10 Sales data and other confidential business information provided under this  
11 section shall be exempt from public inspection and copying under the Public  
12 Records Act and shall be kept confidential. Confidential information shall be  
13 redacted from any final public report.

14           (4) A comparison of the collection plan's participation rate compared to  
15 actual participation rate and how the program will be improved if the  
16 participation rate goal was not met.

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

19           (6) The cost of implementing the collection plan, including the costs of  
20 administration, collection, transportation, recycling, disposal, and education  
21 and outreach.

1           (7) A description and evaluation of the success of the education and  
2           outreach materials.

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

4           (b) Collection plan audit. On or before March 1, 2027 and every five years  
5           thereafter, a stewardship organization of manufacturers of covered household  
6           hazardous products shall hire an independent third party to audit the collection  
7           plan and the plan's operation. The auditor shall examine the effectiveness of  
8           the program in collecting and disposing of covered household hazardous  
9           products. The auditor shall examine the cost-effectiveness of the program and  
10           compare it to that of collection programs for covered household hazardous  
11           products in other jurisdictions. The auditor shall make recommendations to the  
12           Secretary on ways to increase the program's efficacy and cost-effectiveness.

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

15           § 7186. ANTITRUST; CONDUCT AUTHORIZED

16           (a) Activity authorized. A manufacturer, group of manufacturers, or  
17           stewardship organization implementing or participating in an approved  
18           collection plan under this chapter for the collection, transport, processing, and  
19           end-of-life management of covered household hazardous products is  
20           individually or jointly immune from liability for conduct under State laws  
21           relating to antitrust, restraint of trade, unfair trade practices, and other



1 regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1, to  
2 the extent that the conduct is reasonably necessary to plan, implement, and  
3 comply with the stewardship organization's chosen system for managing  
4 discarded covered household hazardous products.

5 (b) Limitations on antitrust activity. Subsection (a) of this section shall not  
6 apply to an agreement among producers, groups of manufacturers, retailers,  
7 wholesalers, or stewardship organizations affecting the price of covered  
8 household hazardous products or any agreement restricting the geographic area  
9 in which or customers to whom covered household hazardous products shall  
10 be sold.

11 § 7187. AGENCY RESPONSIBILITIES

12 (a) Review and approve collection plans. The Secretary shall review and  
13 approve or deny collection plans submitted under section 7183 of this title.  
14 The Secretary shall approve a collection plan if the Secretary finds that  
15 the collection plan:

16 (1) complies with the requirements of subsection 7183(a) of this title;

17 (2) provides adequate notice to the public of the collection opportunities  
18 available for covered household hazardous products;

19 (3) ensures that collection of covered household hazardous products will  
20 occur in an environmentally sound fashion that is consistent with the law or  
21 with any special handling requirements adopted by the Secretary; and

1           (4) promotes the collection and disposal of covered household  
2           hazardous products.

3           (b) Collection plan amendment. The Secretary, in his or her discretion or  
4           at the request of a manufacturer or a stewardship organization, may require a  
5           stewardship organization to amend an approved collection plan. Collection  
6           plan amendments shall be subject to the public input provisions of subsection  
7           (c) of this section.

8           (c) Public input. The Secretary shall establish a process under which a  
9           collection plan for covered household hazardous products is available for  
10           public review and comment for 30 days prior to collection plan approval or  
11           amendment. In establishing such a process, the Secretary shall consult with  
12           interested persons, including manufacturers, environmental groups,  
13           wholesalers, retailers, municipalities, and solid waste districts.

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

18           (e) Supervisory capacity. The Secretary shall act in a supervisory capacity  
19           over the actions of a stewardship organization registered under this section. In  
20           acting in this capacity, the Secretary shall review the actions of the stewardship

1 organization to ensure that they are reasonable, necessary, and limited to  
2 carrying out requirements of and policy established by this chapter.

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

6 § 7188. REIMBURSEMENT; AUTHORIZATION

7 (a) Reimbursement of stewardship organization.

8 (1) A manufacturer or stewardship organization operating an approved  
9 collection plan that collects covered household hazardous products that are not  
10 listed under its approved collection plan shall be entitled to reimbursement  
11 from the manufacturer of the covered household hazardous product of  
12 reimbursable costs per unit of weight incurred in collecting the covered  
13 household hazardous products.

14 (2) Reimbursement may be requested by a collecting manufacturer or  
15 stewardship organization only after the stewardship organization has achieved  
16 the collection rate performance goal approved by the Secretary under section  
17 7183 of this title.

18 (b) Reimbursable costs. Reimbursement shall be allowed only for those  
19 costs incurred in collecting the covered household hazardous products subject  
20 to the reimbursement request. Reimbursable costs include:

1           (1) costs of collection, transport, recycling, and other methods of  
2           disposition identified in a collection plan approved under section 7187 of this  
3           title; and

4           (2) reasonable educational, promotional, or administrative costs.

5           (c) Reimbursement request.

6           (1) A manufacturer or stewardship organization that incurs reimbursable  
7           costs under this section shall submit a request to the manufacturer of the  
8           collected covered household hazardous product or the stewardship  
9           organization in which the manufacturer is participating.

10           (2) A manufacturer or stewardship organization that receives a request  
11           for reimbursement may, prior to payment and within 30 days of receipt of the  
12           request for reimbursement, request an independent audit of submitted  
13           reimbursement costs.

14           (3) The independent auditor shall be responsible for verifying the  
15           reasonableness of the reimbursement request, including the costs sought for  
16           reimbursement, the amount of reimbursement, and the reimbursable costs  
17           assessed by each of the two programs.

18           (4) If the independent audit confirms the reasonableness of the  
19           reimbursement request, the manufacturer or stewardship organization  
20           requesting the audit shall pay the cost of the audit and the amount of the  
21           reimbursement calculated by the independent auditor. If the independent audit

1 indicates the reimbursement request was not reasonable, the manufacturer or  
2 stewardship organization that initiated the reimbursement request shall pay the  
3 cost of the audit and the amount of the reimbursement calculated by the  
4 independent auditor.

5 (d) Role of Agency. The Agency shall not be required to provide  
6 assistance or otherwise participate in a reimbursement request, audit, or other  
7 action under this section, unless subject to subpoena before a court of  
8 jurisdiction.

9 § 7189. PRIVATE RIGHT OF ACTION

10 (a) Action against manufacturer with no collection plan. A manufacturer or  
11 stewardship organization in compliance with the requirements of this chapter  
12 may bring a civil action against another manufacturer or stewardship  
13 organization when:

14 (1) the plaintiff manufacturer or stewardship organization incurs more  
15 than \$1,000.00 in actual reimbursable costs collecting, handling, recycling, or  
16 properly disposing of covered household hazardous products sold or offered  
17 for sale in the State by the other manufacturer;

18 (2) the manufacturer from whom damages are sought:

19 (A) can be identified as the manufacturer of the collected covered  
20 household hazardous products from a brand or marking on the discarded

1 covered household hazardous products or from other information available to  
2 the plaintiff manufacturer or stewardship organization; and

3 (B) does not operate or participate in an approved stewardship  
4 organization in the State or is not otherwise in compliance with the  
5 requirements of this chapter.

6 (b) Action against manufacturer participating in an approved stewardship  
7 organization. A manufacturer or stewardship organization in compliance with  
8 the requirements of this chapter may bring a civil action for damages against a  
9 manufacturer or stewardship organization in the State that is in compliance  
10 with the requirements of this chapter, provided that the conditions of  
11 subsection (c) of this section have been met.

12 (c) Condition precedent to cause of action. Except as authorized under  
13 subsection (a) of this section, a cause of action under this section shall be  
14 allowed only if:

15 (1) a plaintiff manufacturer or stewardship organization submitted a  
16 reimbursement request to another manufacturer or stewardship organization  
17 under section 7188 of this title; and

18 (2) the manufacturer or stewardship organization does not receive  
19 reimbursement within:

20 (A) 90 days of the reimbursement request, if no independent audit is  
21 requested under section 7188 of this title; or

1           (B) 60 days after completion of an audit if an independent audit is  
2           requested under section 7188 of this title, and the audit confirms the validity of  
3           the reimbursement request.

4           (d) Action against individual manufacturer.

5           (1) A civil action under this section may be brought against an  
6           individual manufacturer only if the manufacturer is implementing its own  
7           collection plan and the manufacturer has failed to register to participate in a  
8           stewardship organization.

9           (2) A manufacturer participating in an approved stewardship  
10          organization covering multiple manufacturers shall not be sued individually for  
11          reimbursement.

12          (3) An action against a manufacturer participating in a stewardship  
13          organization covering multiple manufacturers shall be brought against the  
14          stewardship organization implementing the collection plan.

15          (e) Role of Agency. The Agency shall not be a party to or be required to  
16          provide assistance or otherwise participate in a civil action authorized under  
17          this section solely due to its regulatory requirements under this chapter, unless  
18          subject to subpoena before a court of jurisdiction.

19          (f) Damages; definition. As used in this section, “damages” means the  
20          actual, reimbursable costs a plaintiff manufacturer or stewardship organization  
21          incurs in collecting, handling, recycling, or properly disposing of covered

1 household hazardous products identified as having originated from another  
2 manufacturer.

3 § 7190. OTHER DISPOSAL PROGRAMS

4 A municipality or other public agency shall not require covered entities to  
5 use public facilities to dispose of covered household hazardous products to the  
6 exclusion of other lawful programs available. A municipality and other public  
7 agencies are encouraged to work with manufacturers to assist them in meeting  
8 their collection and disposal obligations under this chapter. Nothing in this  
9 chapter prohibits or restricts the operation of any program collecting and  
10 disposing of covered household hazardous products in addition to those  
11 provided by manufacturers or prohibits or restricts any persons from receiving,  
12 collecting, transporting, or disposing of covered household hazardous products,  
13 provided that all other applicable laws are met.

14 § 7191. RULEMAKING

15 The Secretary of Natural Resources may adopt rules to implement the  
16 requirements of this chapter.

17 **Sec. 3. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF**  
18 **REGISTRATION FEE FOR COVERED HOUSEHOLD**  
19 **HAZARDOUS PRODUCTS**

20 On or before January 15, 2022, the Secretary of Natural Resources shall  
21 submit to the House Committees on Ways and Means and on Natural



1 Resources, Fish, and Wildlife and the Senate Committees on Finance and on  
2 Natural Resources and Energy if a fee for the registration of stewardship  
3 organizations under the covered household hazardous product program under  
4 10 V.S.A. chapter 164B is recommended.

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

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

8 \* \* \*

9 (5) Paint (whether water based or oil based); paint thinner; paint  
10 remover; stains; and varnishes. This prohibition shall not apply to solidified  
11 ~~water based~~ water-based paint in quantities of less than one gallon, nor shall  
12 this prohibition apply to solidified ~~water based~~ water-based paint in quantities  
13 greater than one gallon if those larger quantities are from a waste stream that  
14 has been subject to an effective paint reuse program, as determined by the  
15 Secretary.

16 (6) Nickel-cadmium batteries, small sealed lead acid batteries,  
17 nonconsumer mercuric oxide batteries, and any other primary battery ~~added by~~  
18 ~~the Secretary by rule.~~

19 \* \* \*

20 (8) Banned electronic devices. After January 1, 2011; computers;  
21 peripherals; computer monitors; cathode ray tubes; televisions; printers;

1 personal electronics such as personal digital assistants and personal music  
2 players; electronic game consoles; printers; fax machines; wireless telephones;  
3 telephones; answering machines; videocassette recorders; digital versatile disc  
4 players; digital converter boxes; stereo equipment; and power supply cords (,  
5 as used to charge electronic devices).

6 \* \* \*

7 (12) Covered household hazardous products after January 1, 2022.

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

9 § 8003. APPLICABILITY

10 (a) The Secretary may take action under this chapter to enforce the  
11 following statutes and rules, permits, assurances, or orders implementing the  
12 following statutes, and the Board may take such action with respect to  
13 subdivision (10) of this subsection:

14 \* \* \*

15 (27) 10 V.S.A. chapter 123, relating to threatened and endangered  
16 species;

17 (28) 30 V.S.A. § 255, relating to regional coordination to reduce  
18 greenhouse gases; ~~and~~

19 (29) 10 V.S.A. § 1420, relating to abandoned vessels; and

20 (30) 10 V.S.A. chapter 164B, relating to collection and management of  
21 covered household hazardous products.

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Sec. 6. 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:

\* \* \*

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

(V) chapter 164B (collection and management of covered household hazardous products).

(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).

\* \* \*

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.