

H.688 · As Passed by House
“Vermont Global Warming Solutions
Act of 2020”

Senate Committee on Natural Resources &
Energy

MAY 21, 2020

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How Law Would Work / Key Steps

Establish GHG reduction requirements
(2025, 2030, 2050)

Vermont Climate Council
(begin meeting as early as Fall 2020)

Vermont Climate Action Plan
(December 1, 2021)

ANR rulemaking to implement plan &
achieve GHG reductions

Cause of action if ANR fails to engage in
rulemaking or rules fail to achieve GHG reductions

GHG reduction requirements (Sec. 3); amending 10 V.S.A. § 578

- Current law: “Goal” to reduce GHG emissions from 1990 baseline by:
 - 2012: 25%
 - 2028: 50%
 - 2050: 75% “if practicable using reasonable efforts”
- H.688: Mandatory reductions of not less than:
 - 2025: 26% below 2005 levels
 - 2030: 40% below 1990 levels
 - 2050: 80% below 1990 levels

VT Climate Council & Action Plan (Sec. 4); new 10 V.S.A. Chap. 24

10 V.S.A. § 590: Definitions

- Greenhouse gas: Same as definition in 10 V.S.A. § 552 (“any chemical or physical substance that is emitted into the air and that the Secretary [of ANR] may reasonably anticipate to cause or contribute to climate change, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride”)

Climate Council; 10 V.S.A. § 591

- Membership: 22 total; 8 Executive Branch; 7 appointed by House; 7 by Senate
- Duties & deliverables
 - Identify, analyze, and evaluate strategies & programs to achieve GHG reductions
 - Adopt the VT Climate Action Plan
 - Measurement
 - Guidance to ANR concerning rules
- Subcommittees
 - 4 required, others optional
- Support
- Reports

Climate Action Plan; 10 V.S.A. § 592

- (a) Adopt Dec. 1, 2021 & update every 4 years
- Specific initiatives, programs, and strategies to achieve GHG reductions & build resiliency to climate change
 - (b) Plan must include specific initiatives, programs, and strategies that achieve 7 higher level goals
 - (c) Basis for development of the initiatives, programs, and strategies set forth in (b)
 - (d) Initiatives must further 8 more specific objectives
- (e) Plan shall form basis for rules; if Council fails to adopt Plan ANR shall adopt rules

Rules; 10 V.S.A. § 593

- ANR shall adopt rules
 - Consistent with specific initiatives, programs, and strategies in Plan
 - Develop & file a detailed record
- Time periods to adopt & update rules (GHG reduction requirements 10 V.S.A. § 578)
 - December 1, 2022 (to meet 2025 reduction requirements)
 - July 1, 2026 (2030 reduction requirements)
 - July 1, 2040 (2050 reduction requirements)
- Alternative reduction mechanisms
- If Council fails to adopt Plan: ANR must proceed

Cause of action; 10 V.S.A. § 594

- This topic discussed in more depth on another day?
- Scenario (a): ANR fails to adopt or update rules
 - Rule 75
 - Time frame & notice
 - Remedy
- Scenario (b): ANR does adopt rules, but those rules fail to achieve GHG reductions
 - Time frame & notice
 - Remedy, “substantial cause”, “prompt and effective” action to comply
- (c) Awarding of costs & fees
- (d) Does not limit existing remedies

Other provisions

- Sec. 5: Rulemaking process
- Sec. 6: Appointment of members to Council
- Secs. 7 & 8: State energy policy and plan
- Secs. 9 & 10: Appropriation & positions
- Sec. 11: Effective date

Summary of time frames

- Bill effective on passage
- Climate Council appointed w/in 60 days of bill becoming law and 1st meeting within 30 days. Council can therefore start meeting fall 2020?
- Council adopt Plan on or before Dec. 1, 2021
- ANR develop rules (Dec. 2021 – May 2022)
 - Rules to Council at least 45 days before filed with ICAR (early – mid May 2022)
 - Rules to House & Senate Committees at least 30 days before filed with ICAR (late May – June 1, 2022)
- Rules filed with ICAR July 1, 2022
 - ICAR / LCAR process July – Dec. 2022
- Rules adopted by Dec. 1, 2022 (to meet 2025 GHG reduction goals)

Other legal issues

- Delegation / non-delegation doctrine
- Rulemaking process & limits on authority
- Cause of action

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