

The Global Warming Solutions Act (AKA the GWSA)

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10 VSA chapter 24

- Also known as the Global Warming Solutions Act or GWSA. Act 153 of 2020.
- Changed the greenhouse gas emissions (GHG) reduction goals to requirements; requirements match the Paris Agreement reductions (to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels” and pursue efforts “to limit the temperature increase to 1.5°C above pre-industrial levels.”)
- Established Climate Council to develop Climate Action Plan to create list of actions the State could adopt to reach the required GHG reductions
- Directs ANR to adopt rules to assist in meeting reduction requirements
- Establishes private right of action (citizen suit) to allow public to sue State (ANR) if the rules aren’t in place to meet the reductions or the reductions aren’t met.
- Progress measured in Vermont Greenhouse Gas Emission Inventory and Forecast published by ANR.

§ 578. Greenhouse gas reduction requirements

(a) Greenhouse gas reduction requirements. Vermont shall reduce emissions of greenhouse gases from within the geographical boundaries of the State and those emissions outside the boundaries of the State that are caused by the use of energy in Vermont, as measured and inventoried pursuant to section 582 of this title, by:

- (1) not less than **26%** from 2005 greenhouse gas emissions by **January 1, 2025** pursuant to the State's membership in the United States Climate Alliance and commitment to implement policies to achieve the objectives of the 2016 Paris Agreement;
- (2) not less than **40%** from 1990 greenhouse gas emissions by **January 1, 2030** and
- (3) not less than **80%** from 1990 greenhouse gas emissions by **January 1, 2050**

By 2025- 7.30; By 2030- 5.14; by 2050- 1.71

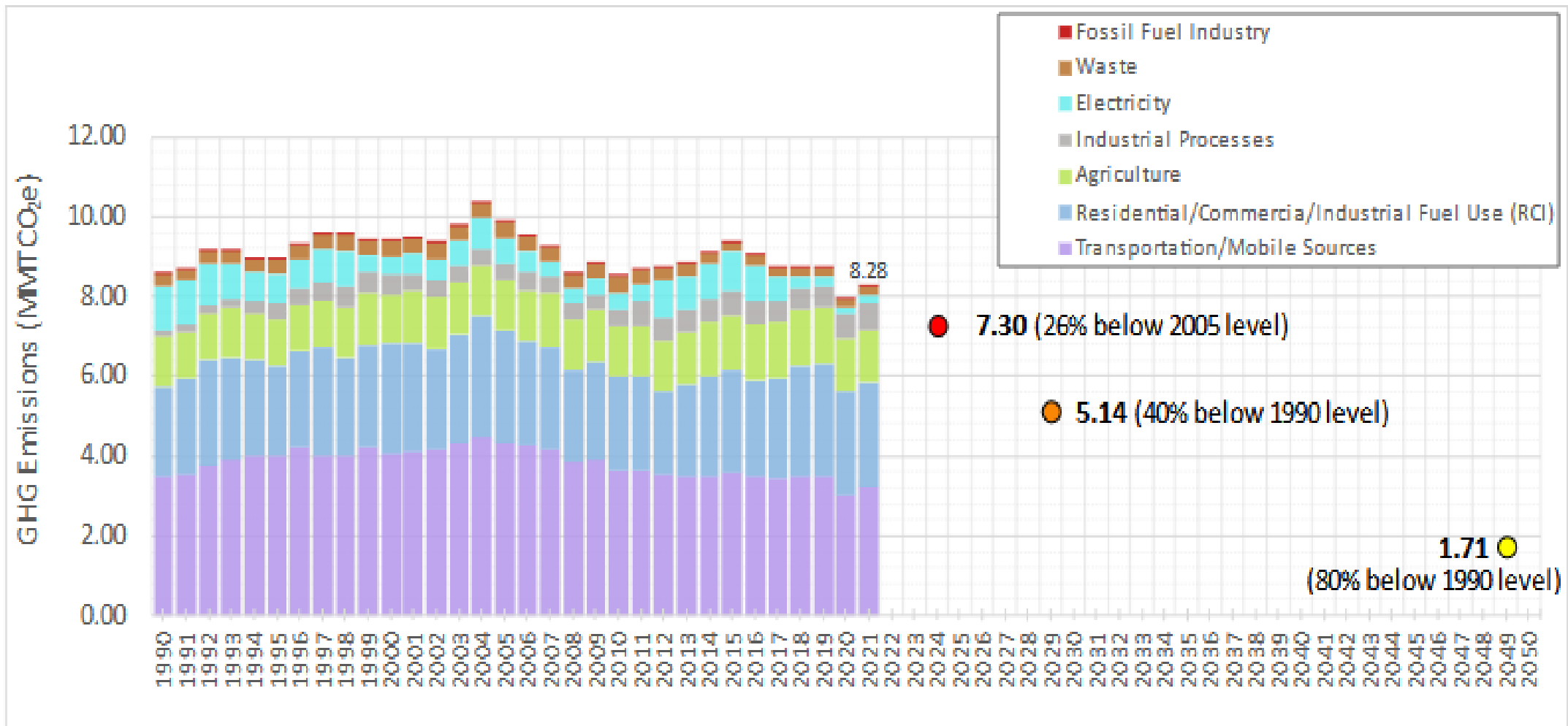


Figure 4: Total and sector-specific GHG emissions in Vermont, 1990-2021 with targets.

§ 591. Vermont Climate Council

The Climate Council has 23 members- 8 ex officio, 8 appointed by Speaker of House, and 7 appointed by Committee on Committees

- *Rural Resilience and Adaptation Subcommittee*
- *Cross-Sector Mitigation Subcommittee*
- *Just Transitions Subcommittee*
- *Agriculture and Ecosystems Subcommittee*

On or before **December 1, 2021**, adopt the Vermont Climate Action Plan (Plan) and update the Plan on or before **July 1 every four years** thereafter.

- *Strategies and programs to achieve the GHG emissions requirements*
- *Strategies and programs that build resilience and prepare the State to adapt to the current and anticipated effects of climate change;*
- *Means to measure the State's progress towards meeting the GHG emissions requirements; and,*
- *Guidance to the Vermont General Assembly on necessary legislation*

Annual reports to General Assembly every January 1 on prior year's activities

§ 591. Vermont Climate Council

(b) The Council shall:

(1) Identify, analyze, and evaluate strategies and **programs to reduce greenhouse gas emissions; achieve the State's reduction requirements; and build resilience** to prepare the State's communities, infrastructure, and economy to adapt to the current and anticipated effects of climate change, including:

(A) creating an **inventory of all existing programs** that impact GHGs and their efficacy;

(B) evaluating and analyzing the **technical feasibility and cost-effectiveness** of existing strategies and programs and identifying, evaluating, and analyzing new strategies and programs that are based upon emerging scientific and technical information;

(C) analyzing each source or category of sources of GHGs and identifying which strategies and programs will result in the **largest greenhouse gas emissions reductions in the most cost-effective manner**;

(D) identifying, analyzing, and evaluating public and private **financing strategies** to support the transition to a reduced greenhouse gas emissions economy and a more resilient State; and

(E) evaluating and analyzing existing **strategies and programs that build resilience**, and identifying, evaluating, and analyzing new strategies and programs to prepare the State's communities, infrastructure, and economy to adapt to the current and anticipated effects of climate change.

(3) Identify the means to accurately measure:

(A) the State's **greenhouse gas emissions and progress** towards meeting the reduction requirements, including publishing emissions data in a timely manner;

(B) the **effectiveness of the specific initiatives**, programs, and strategies set forth **in the Plan** and updates to the Plan in reducing greenhouse gas emissions;

(C) the **effect of climate change** on the State's climate, wildlife, and natural resources; and

(D) the existing resilience of the State's communities, infrastructure, and economy and **progress towards improving resilience** to adapt to the current and anticipated effects of climate change.

(4) Provide guidance to the Secretary of Natural Resources concerning the form, content, and subject matter of the rules

§ 592. The Vermont Climate Action Plan

First Plan due Dec. 1, 2021 with updates on July 1 every 4 years after

The Plan must address strategies for reducing GHG emissions from the transportation, building, regulated utility, industrial, commercial, and agricultural sectors

Also:

- Prioritize the most cost-effective, technologically feasible, and equitable GHG emissions reduction pathways, adaptation and preparedness strategies;
- Provide for GHG emissions reductions that reflect the relative contribution of emissions from different sectors;
- Minimize negative impacts on marginalized and rural communities and individuals with low and moderate incomes;
- Ensure that all regions of the state benefit from GHG emissions reductions;
- Support economic sectors and regions of the state that face the greatest barriers to emissions reductions, especially rural and economically distressed regions and industries;
- Support industries, technology, and training that will allow workers and businesses in the state to benefit from GHG reduction solutions;
- Support the use of natural and working lands to reduce GHG, sequester carbon and increase resilience; and
- Maximize the state's involvement in interstate and regional initiatives and programs designed to reduce GHG emissions, and build upon state, national, and international partnerships and programs.

The Plan shall form the basis of the rules adopted by ANR. If no Plan or Plan update is adopted, ANR shall proceed to adopt rules to achieve the GHG reduction requirements.

§ 593. Rules (not verbatim)

- (a) The Secretary of Natural Resources shall adopt rules pursuant to APA consistent with the Vermont Climate Action Plan. ANR shall develop a detailed record containing facts; data; and legal, scientific, and technical information sufficient to establish a reasonable basis to believe that the rules shall achieve the State's GHG emissions reductions requirements.
- (b) On or before December 1, 2022, the Secretary shall adopt and implement rules consistent with the specific initiatives, programs, and strategies **set forth in the Plan** and **achieve the 2025** GHG emissions reduction requirement.
- (c) The Secretary shall **conduct public hearings** across the State concerning the proposed rules. The Secretary shall conduct a portion of these hearings in areas and communities that have the most significant exposure to the impacts of climate change, including disadvantaged, low-income, and rural communities and areas.
- (d) The Secretary shall, on or before July 1, 2024, review and, if necessary, update the rules in order to ensure that the 2025 GHG emissions reduction requirement is achieved. In performing this review and update, the Secretary shall observe the requirements of subsection (c).
- (e) On or before July 1, 2026, the Secretary shall adopt and implement rules consistent with the specific initiatives, programs, and strategies set forth in the Plan and updates to the Plan and achieve the 2030 GHG emissions reduction. The Secretary shall observe the requirements of subsection (c) of this section.

§ 593. Rules (not verbatim)

(f) The Secretary shall, at his or her discretion, but not less frequently than once every two years between 2026 and 2030, review and, if necessary, update the rules required by subsection (e) of this section in order to ensure that the 2030 GHG emissions reduction requirement is achieved. In performing this review and update, the Secretary shall observe the requirements of subsection (c) of this section.

(g) On or before July 1, 2040, the Secretary shall adopt and implement rules consistent with the specific initiatives, programs, and strategies set forth in the Plan and updates to the Plan and achieve the 2050 GHG emissions reduction requirement.

(h) The Secretary shall, at his or her discretion, but not less frequently than once every two years between 2040 and 2050, review and, if necessary, update the rules required by subsection (g) of this section in order to ensure that the 2050 GHG emissions reduction requirement is achieved. In performing this review and update, the Secretary shall observe the requirements of subsection (c) of this section.

(i) The Secretary may establish alternative reduction mechanisms to be used by sources of GHG emissions, if necessary, to achieve net zero emissions after 2050.

(1) The use of alternative reduction mechanisms shall account for not more than 20 percent of statewide GHG emissions estimated as a percentage of 1990 emissions. The use of a mechanism must offset a quantity of GHG emissions equal to or greater than the amount of GHGs emitted.

(2) The Secretary shall verify that any GHG emissions offset projects authorized as alternative reduction mechanisms represent equivalent emissions reductions or carbon sequestration that are real, additional, verifiable, enforceable, and permanent.

(j) If the Council fails to adopt the Plan or update the Plan as required, the Secretary shall adopt and implement rules pursuant to 3 V.S.A. chapter 25 to achieve the GHG emissions reductions requirements.

(k) Nothing in this section shall be construed to limit the existing authority of a State agency, department, or entity to regulate greenhouse gas emissions or establish strategies or adopt rules to mitigate climate risk and build resilience to climate change.

(l) The General Assembly may repeal, revise, or modify any rule or amendment to any rule, and its action shall not be abridged, enlarged, or modified by subsequent rule.

§ 594. Cause of action (aka citizen suit)

(a) Any person may commence an action based upon the **failure of ANR to adopt or update rules** pursuant to the deadlines in section 593.

(1) The action shall be brought pursuant to Rule 75 of the Vermont Rules of Civil Procedure in the Civil Division of the Superior Court of Washington County.

(2) The complaint shall be filed within one year after expiration of the time in which the Secretary of Natural Resources was required to adopt or update rules. However, a person shall not commence an action until at least 60 days after providing notice of the alleged violation to the Secretary.

(3) If the court finds that the Secretary has failed to adopt or update rules, **the court shall enter an order directing the Secretary to adopt or update rules**. *If the court finds that the Secretary is taking prompt and effective action to adopt or update rules, the court may grant the Secretary a reasonable period of time to do so.*

(b) Any person may commence an action alleging that rules adopted by the Secretary have **failed to achieve** GHG emissions reductions requirements.

(1) The action shall be brought in the Civil Division of the Superior Court of Washington County.

(2) The complaint shall be filed within one year after the Vermont Greenhouse Gas Emission Inventory and Forecast published indicates that the rules adopted by the Secretary have failed to achieve the GHG emissions reductions requirements. However, a person shall not commence an action under this subsection until at least 60 days after providing notice of the alleged violation to the Secretary.

(3) If the court finds that the rules adopted by the Secretary are a substantial cause of failure to achieve the GHG emissions reductions requirements, **the court shall enter an order remanding the matter to the Secretary to adopt or update rules** that achieve the GHG emissions reductions requirements consistent with this chapter. *If the court finds that the Secretary is taking prompt and effective action to comply, the court may grant the Secretary a reasonable period of time to do so.*

(c) In an action brought pursuant to this section, a prevailing party or substantially prevailing party:

(1) that is a plaintiff shall be awarded reasonable costs and attorney's fees unless doing so would not serve the interests of justice; or

(2) that is a defendant may be awarded reasonable costs and attorney's fees if the action was frivolous or lacked a reasonable basis in law or fact.

(d) Nothing in this section shall be construed to limit the rights, procedures, and remedies available under any law, including the Vermont Administrative Procedure Act.