

1 H.560

2 Introduced by Representatives Deen of Westminster and Sullivan of

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; hazardous waste; household

7 hazardous substances

8 Statement of purpose of bill as introduced: This bill proposes, beginning on  
9 January 15, 2020, to require a manufacturer of a household product containing  
10 a hazardous substance to register on or before January 15 of each year each  
11 household product containing a hazardous substance with the Secretary of  
12 Natural Resources prior to sale or distribution. A manufacturer registering a  
13 household product containing a hazardous substance shall pay an annual fee of  
14 \$100.00 for each registered household product containing a hazardous  
15 substance. The fees collected shall be deposited in the Waste Management  
16 Assistance Fund for distribution to solid waste districts and municipalities to  
17 administer and operate household hazardous waste collection programs in the  
18 State.

19 An act relating to household products containing hazardous substances

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

2 Sec. 1. FINDINGS

3 The General Assembly finds that:

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

6 (2) Vermont's hazardous waste regulations establish specific  
7 requirements for the management of hazardous waste, including a prohibition  
8 on disposal in landfills, but Vermont's hazardous waste regulations do not  
9 apply to leftover household products that contain corrosive, toxic, ignitable, or  
10 reactive ingredients.

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

17 (4) Many SWMEs offer much more than four HHW collection events  
18 each year, and five of the SWMEs have established permanent facilities for the  
19 regular collection of HHW.

20 (5) HHW collection events or permanent facilities are expensive to  
21 operate and SWMEs spend approximately \$1.6 million a year to manage

1 HHW costs that are subsequently passed on to the residents of Vermont  
2 through taxes or disposal charges.

3 (6) Despite the diligent efforts of the SWMEs to divert HHW from  
4 municipal solid waste disposed of in landfills, it is estimated that only  
5 3.8 percent of residents statewide participate in HHW collection events or  
6 dispose of HHW at HHW permanent facilities.

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

10 (8) 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, but funding constraints are a current barrier to new  
14 collection sites and educational and informational activities.

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

18 (10) To improve diversion of HHW from landfills, reduce the financial  
19 burden on SWMEs and taxpayers of managing HHW, and lessen the  
20 environmental and public health risk posed by improperly disposed of HHW,  
21 the State should require the manufacturers of household products containing a

1 ~~hazardous substance to register the products sold in the State and pay a fee that~~  
2 ~~will be used to fund improved management of HHW in the State.~~

3 Sec. 2. 10 V.S.A. chapter 159, subchapter 5 is added to read:

4 Subchapter 5. Household Products Containing Hazardous Substances

5 § 6691. DEFINITIONS

6 As used in this subchapter:

7 (1) "Agency" means the Agency of Natural Resources.

8 (2) "Commission" means the federal Consumer Product Safety

9 Commission.

10 (3) "Consumer product" means any product that is regularly used or  
11 purchased to be used for personal, family, or household purposes.

12 (4) "Corrosive" means any substance that in contact with living tissue  
13 will cause destruction of tissue by chemical action. "Corrosive" shall not refer  
14 to action on inanimate surfaces.

15 (5) "Extremely flammable," "flammable," and "combustible" shall have  
16 the same meanings as set forth in 16 C.F.R. § 1500.3(c)(6).

17 (6)(A) "Hazardous substance" means:

18 (i) Any substance or mixture of substances that is toxic, corrosive,  
19 an irritant, a strong sensitizer, flammable or combustible, or generates pressure  
20 through decomposition, heat, or other means, if the substance or mixture of  
21 substances may cause substantial personal injury or substantial illness during

1 ~~or as a proximate result of any customary or reasonably foreseeable handling~~  
2 ~~or use, including reasonably foreseeable ingestion by children.~~

3 ~~(ii) Any substance that the Commission by regulation determines~~  
4 ~~to be a hazardous substance.~~

5 ~~(iii) Any radioactive substance that the Commission determines~~  
6 ~~by regulation is sufficiently hazardous to require labeling to protect public~~  
7 ~~health.~~

8 ~~(iv) Any article that is not itself a pesticide within the meaning of~~  
9 ~~the Federal Insecticide, Fungicide, and Rodenticide Act but that is a hazardous~~  
10 ~~substance by reason of bearing or containing the pesticide.~~

11 ~~(B) "Hazardous substance" shall not mean:~~

12 ~~(i) a pesticide subject to the Federal Insecticide, Fungicide, and~~  
13 ~~Rodenticide Act;~~

14 ~~(ii) a food, drug, or cosmetic subject to the Federal Food, Drug,~~  
15 ~~and Cosmetic Act;~~

16 ~~(iii) a substance intended for use as a fuel when stored in a 20-~~  
17 ~~pound cylinder or other container and used in the heating, cooking, or~~  
18 ~~refrigeration system of a house; or~~

19 ~~(iv) any source material, special nuclear material, or by-product~~  
20 ~~material as defined in the Atomic Energy Act of 1954, as amended, and~~  
21 ~~regulations issued under that act by the Atomic Energy Commission.~~

1 (7) “Highly toxic” means any substance that:

2 (A) produces death within 14 days in one-half or more than one-half  
3 of a group of 10 or more laboratory white rats, each weighing between 200  
4 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body  
5 weight, when orally administered; or

6 (B) produces death within 14 days in one-half or more than one-half  
7 of a group of 10 or more laboratory white rats, each weighing between 200  
8 and 300 grams, when inhaled continuously for a period of one hour or less at  
9 an atmospheric concentration of 200 parts per million by volume or less of gas  
10 or vapor or two milligrams per liter by volume or less of mist or dust, provided  
11 that the concentration is likely to be encountered by humans when the  
12 substance is used in any reasonably foreseeable manner.

13 (8) “Household hazardous waste” shall have the same meaning as  
14 provided in section 6602 of this title.

15 (9) “Household product containing a hazardous substance” means a  
16 consumer product that includes a hazardous substance or that would be a  
17 household hazardous waste if discarded. “Household product containing a  
18 hazardous substance” shall not mean any of the following:

19 (A) architectural paint regulated under chapter 159, subchapter 4 of  
20 this title;

21 (B) covered electronic devices regulated under chapter 166 of this

1 title;

2 (C) mercury-containing lamps regulated under chapter 164A of this

3 title;

4 (D) primary batteries regulated under chapter 168 of this title; or

5 (E) propane cylinders or tanks of more than one pound.

6 (10) "Irritant" means any substance, other than a corrosive, that on  
7 immediate, prolonged, or repeated contact with normal living tissue will  
8 induce a local inflammatory reaction.

9 (11) "Manufacturer" means a person who:

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

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

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

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

19 (E) manufactures a household product containing a hazardous  
20 substance for sale in the State without affixing a brand name.

21 (12) "Radioactive substance" means a substance that emits ionizing

1 radiation.

2 (13) "Strong sensitizer" means a substance that will cause on normal  
3 living tissue through an allergic or photodynamic process a hypersensitivity  
4 that becomes evident on reapplication of the same substance and that is  
5 designated as a strong sensitizer by the Commission.

6 (14) "Toxic" means any substance, other than a radioactive substance,  
7 that has the capacity to produce personal injury or illness to humans through  
8 ingestion, inhalation, or absorption through any surface of the body.

9 § 6692. REGISTRATION OF HOUSEHOLD PRODUCTS CONTAINING A  
10 HAZARDOUS SUBSTANCE

11 (a) Registration required; prohibition. A manufacturer shall not sell, offer  
12 for sale, distribute, or deliver to a retailer for subsequent sale a household  
13 product containing a hazardous substance in the State unless the manufacturer,  
14 on or before January 15 each year, registers with the Secretary of Natural  
15 Resources each household product containing a hazardous substance when the  
16 household product has a unique universal product code or European article  
17 number. A manufacturer initiating a business in the State shall file the  
18 registration required under this section prior to selling, offering for sale,  
19 distributing, or delivering a household product containing a hazardous  
20 substance in the State. A manufacturer who annually sells, offers for sale,  
21 distributes, or delivers in or into the State a household product containing a

1 ~~hazardous substance with a total retail value of less than \$5,000.00 shall be~~  
2 ~~exempt from the requirements of this subchapter.~~

3 ~~(b) Registration information. The registration required under subsection~~  
4 ~~(a) of this section shall include:~~

5 ~~(1) the name and address of the manufacturer registering the household~~  
6 ~~product containing a hazardous substance and the name and address of the~~  
7 ~~manufacturer whose name will appear on the label of the household product~~  
8 ~~containing a hazardous substance, if other than the registrant;~~

9 ~~(2) the name of the household product containing a hazardous substance~~  
10 ~~and its universal product code or European article number;~~

11 ~~(3) the name of the hazardous substance in the household product~~  
12 ~~containing a hazardous substance;~~

13 ~~(4) a complete copy of any labeling that accompanies the household~~  
14 ~~product containing a hazardous substance; and~~

15 ~~(5) additional information required by the Secretary by rule.~~

16 ~~(c) Registration fee; disposition. A manufacturer registering a household~~  
17 ~~product containing a hazardous substance shall pay an annual fee of \$100.00~~  
18 ~~for each household product containing a hazardous substance registered. The~~  
19 ~~fees collected shall be deposited in the Waste Management Assistance Fund.~~

20 § 6693. AGENCY RESPONSIBILITIES

21 ~~(a) Website of registered products. Within 60 days of the first annual~~

1 ~~registration required under this subchapter, the Agency shall develop a website~~  
2 ~~of registered household products containing a hazardous substance. The~~  
3 ~~Agency shall update the website when new household products containing a~~  
4 ~~hazardous substance are registered.~~

5 (b) Registration enforcement. The Agency shall enforce the requirements  
6 for registration under its authority set forth in chapter 201 of this title. Agency  
7 enforcement shall include inspections of retailers to determine if household  
8 products containing a hazardous substance are properly registered in the State.  
9 A retailer shall not be subject to enforcement for sale of an unregistered  
10 household product containing a hazardous substance.

11 (c) Disbursements of funds. The Agency shall disburse funds from the  
12 Waste Management Assistance Fund under 24 V.S.A. § 6618 to solid waste  
13 districts and municipalities for the costs associated with constructing,  
14 administering, and operating household hazardous waste collection programs.

15 § 6694. RULEMAKING; INFORMATION COLLECTION

16 (a) The Secretary may adopt rules to implement the requirements of this  
17 subchapter. The rules may include exemptions from the registration  
18 requirements of section 6692 of this title.

19 (b) The Secretary may require a manufacturer submitting a registration to  
20 submit additional information related to the product, including information  
21 about the use of the product, a universal product code for the product, and any

1 ~~potential health effects associated with the product.~~

2 Sec. 3. 10 V.S.A. § 6618 is amended to read:

3 § 6618. WASTE MANAGEMENT ASSISTANCE FUND

4 (a) There is hereby created in the State Treasury a fund to be known as the  
5 Waste Management Assistance Fund, to be expended by the Secretary of  
6 Natural Resources. The Fund shall have ~~three~~ four accounts: one for Solid  
7 Waste Management Assistance, one for Hazardous Waste Management  
8 Assistance, ~~and~~ one for Electronic Waste Collection and Recycling Assistance,  
9 and one for Household Products Containing Hazardous Substances. The  
10 Hazardous Waste Management Assistance Account shall consist of a  
11 percentage of the tax on hazardous waste under the provisions of 32 V.S.A.  
12 chapter 237, as established by the Secretary, the toxics use reduction fees  
13 under subsection 6628(j) of this title, and appropriations of the General  
14 Assembly. In no event shall the amount of the hazardous waste tax which is  
15 deposited to the Hazardous Waste Management Assistance Account exceed 40  
16 percent of the annual tax receipts. The Solid Waste Management Assistance  
17 Account shall consist of the franchise tax on waste facilities assessed under the  
18 provisions of 32 V.S.A. chapter 151, subchapter 13, and appropriations of the  
19 General Assembly. The Electronic Waste Collection and Recycling Account  
20 shall consist of the program and implementation fees required under section  
21 ~~7555~~ 7555 of this title. The Household Products Containing Hazardous Substances

1 ~~Account shall consist of the hazardous substances registration fees under~~  
2 section 6692 of this title. All balances in the Fund accounts at the end of any  
3 fiscal year shall be carried forward and remain a part of the Fund accounts,  
4 except as provided in subsection (e) of this section. Interest earned by the  
5 Fund shall be deposited into the appropriate Fund account. Disbursements  
6 from the Fund accounts shall be made by the State Treasurer on warrants  
7 drawn by the Commissioner of Finance and Management.

8 \* \* \*

9 (f) The Secretary shall authorize disbursements from the Household  
10 Products Containing Hazardous Substances Account for the purpose of  
11 enhancing the management of household products containing hazardous  
12 substances in accordance with subchapter 5 of this chapter, including  
13 disbursements for:

14 (1) All costs incurred by solid waste management entities and  
15 municipalities to construct, administer, and operate household hazardous waste  
16 collection programs, including one-day collection events and permanent  
17 collection programs. All costs include the construction of necessary  
18 infrastructure, maintenance, operating costs, transportation, disposal, and  
19 outreach and education. The Secretary annually shall allocate at least 50  
20 percent of the hazardous substances registration fees collected under section  
21 6692 of this title for the purposes of this subdivision.

1 ~~(2) The costs of the Agency of Natural Resources in administering and~~  
2 enforcing the registration requirements for household products containing a  
3 hazardous substance under chapter 159, subchapter 5 of this title.

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

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

7 \* \* \*

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

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

18 \* \* \*

19 (8) Banned electronic devices. After January 1, 2011, computers;  
20 peripherals; computer monitors; cathode ray tubes; televisions; printers;  
21 personal electronics such as personal digital assistants and personal music

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

5 \* \* \*

6 (12) Household products containing hazardous substances after  
7 January 15, 2020.

8 Sec. 5. EFFECTIVE DATE; IMPLEMENTATION

9 This act shall take effect on July 1, 2018, provided that the annual  
10 registration required under 10 V.S.A. § 6692 shall not be required until  
11 January 15, 2020.

*Sec. 1. FINDINGS*

*The General Assembly finds that:*

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

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

*(3) Leftover household products, known as household hazardous waste*  
*(HHW), are regulated through a requirement that municipal solid waste*  
*management entities (SWMEs) include provisions in solid waste*

implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also will require the SWMEs to each hold four HHW collection events every year.

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

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

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

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

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

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

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs, taxpayers, and the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to recommend how best to manage and fund HHW in the State.

(11) If the Working Group on Household Hazardous Waste fails to provide recommendations, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

*Sec. 2. AGENCY OF NATURAL RESOURCES WORKING GROUP ON  
HOUSEHOLD HAZARDOUS WASTE*

(a) The Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to review alternatives for the management and funding of household hazardous waste collection in the State. It is the intent of the General Assembly that the Working Group will involve a representative group of stakeholders with interest in the management of household hazardous waste. On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report on

agreement within the Working Group, or lack thereof, recommending how the State should manage and fund household hazardous waste. If agreement is reached, the report shall include:

(1) a review of the stewardship organization requirements of 10 V.S.A. chapter 164B, as enacted in Sec. 3 of this act, and make recommendations on how to efficiently and effectively implement the requirements in 10 V.S.A. chapter 164B including any changes necessary to implement or improve the chapter; and

(2) an evaluation of alternative methods for easing the financial burden to municipalities and providing convenient access for collection of household hazardous waste.

(b) As used in this section, “household hazardous waste” shall have the same meaning as set forth in 10 V.S.A. § 6602, and shall include waste from conditionally exempt generators.

*Sec. 3. 10 V.S.A. chapter 164B is added to read:*

CHAPTER 164B. COLLECTION AND MANAGEMENT OF HOUSEHOLD

HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

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

(2) “Consumer product” means any product that is regularly used or

purchased to be used for personal, family, or household purposes.

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

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

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

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

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

(B) “Covered product” does not mean:

(i) A primary battery or rechargeable battery.

(ii) A lamp that contains mercury.

(iii) A thermostat that contains mercury.

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

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

(vi) A pharmaceutical drug.

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

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

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

(5) "Manufacturer" means a person who:

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

(B) sells in the State under its own brand or label a covered

household hazardous product produced by another supplier;

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

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

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

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

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

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

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

(9) "Sell" or "sale" means any transfer for consideration of title or of

the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. "Sell" or "sale" does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer's wholesale transaction with a distributor or a retailer.

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

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT;

STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on January 1, 2021, except as set forth under section 7188 of this title, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

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

(2) The name of the manufacturer, the manufacturer's brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the

stewardship organization's website as covered by an approved plan.

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

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

(b) Stewardship organization registration requirements.

(1) Beginning on January 1, 2020 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to a stewardship organization. The registration form shall include:

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

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

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

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

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable

requirements for participation in the stewardship organization; and

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

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

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to July 1, 2020, a stewardship organization representing manufacturers of covered household hazardous products shall submit a collection plan to the Secretary for review.

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

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

(2) Free collection of covered household hazardous products. The collection program shall provide for free collection from covered entities of covered household hazardous products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous

product based on the brand or manufacturer of the covered household hazardous product. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, maintenance, and labor.

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

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

(B) at a minimum, has not less than one collection program in each county, provided that stewardship organizations shall have until July 1, 2023 to establish permanent collection programs in counties that currently lack a program. Prior to establishment of a permanent collection program in a county that currently lacks a program, the stewardship organization shall hold at least four collection events per year for the collection of covered household hazardous products; and

(C) maintains the current level of convenience provided by programs in operation prior to July 1, 2020 that are identified as collection programs under the plan.

(4) Public education and outreach. The collection plan shall include an education and outreach program that may include media advertising, retail

displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall include a website to notify the public of the following:

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

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

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

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

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

(6) Method of disposition. The plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under

the plan shall use management activities that promote source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

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

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

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

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

(8) Participation rate. A stewardship plan shall include a collection participation rate as a performance goal for covered household hazardous products based on the participation rate determined by the number of total participants in the collection plan during a program year divided by the total number of households in the State. If a stewardship organization does not meet its participation rate, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the

following: additional public education and outreach, additional collection events, or additional hours of operation for collection sites.

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

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

(d) Plan implementation. A stewardship organization shall implement a collection plan by no later than January 1, 2021.

#### § 7184. STEWARDSHIP ORGANIZATIONS

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

(b) Qualifications for a stewardship organization. To qualify as a

stewardship organization under this chapter, an organization shall:

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

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

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

§ 7185. ANNUAL REPORT; PLAN AUDIT

(a) Annual report. On or before March 1, 2022, and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

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

(3) An estimate of the weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year

by manufacturer participating in stewardship organization's collection plan. Sales data and other confidential business information provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

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

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

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

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

(8) Recommendations for any changes to the program.

(b) Plan audit. On or before March 1, 2026 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The

auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

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

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

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

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered

household hazardous product or any agreement restricting the geographic area in which or customers to whom covered household hazardous product shall be sold.

§ 7187. AGENCY RESPONSIBILITIES

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

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

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

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

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

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

(c) Public input. The Secretary shall establish a process under which a

collection plan for covered household hazardous products is available for public review and comment for 30 days prior to plan approval or amendment. In establishing such a process, the Secretary shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts.

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

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

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

#### § 7188. RETAILER OBLIGATIONS

(a) Sale prohibited. Except as set forth under subsection (b) of this section, beginning on January 1, 2021, no retailer shall sell or offer for sale a covered household hazardous product unless the retailer has reviewed the stewardship

organization website required in subsection 7184(b) of this title to determine that the manufacturer of the covered household hazardous product is implementing an approved collection plan or is a member of a stewardship organization.

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

(1) the retailer purchased the covered household hazardous product prior to January 1, 2021; or

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

#### § 7189. OTHER DISPOSAL PROGRAMS

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

provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7190. RULEMAKING

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

Sec. 4. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF  
REGISTRATION FEE FOR COVERED HOUSEHOLD  
HAZARDOUS PRODUCTS

On or before January 15, 2021, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

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

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

\* \* \*

(5) Paint (, whether ~~water-based~~ water-based or oil-based), oil-based; paint thinner; paint remover; stains; and varnishes. This prohibition shall

*not apply to solidified ~~water-based~~ water-based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified ~~water-based~~ water-based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the Secretary.*

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

*\* \* \**

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

*\* \* \**

*(12) Covered household hazardous products after January 1, 2021.*

*Sec. 6. 10 V.S.A. § 8003 is amended to read:*

*§ 8003. APPLICABILITY*

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

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

*\* \* \**

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

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

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

*\* \* \**

*Sec. 7. 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. 8. EFFECTIVE DATE*

*This act shall take effect on passage.*