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S.103

Introduced by Senators Lyons, Campion, Ayer, Balint, Bray, Cummings,
Ingram, MacDonald, McCormack, and Sears

Referred to Committee on Natural Resources and Energy

Date: February 28, 2017

Subject: Conservation and development; environmental health; hazardous
materials; toxic substances

Statement of purpose of bill as introduced: This bill proposes to amend requirements under the State Toxics Use Reduction and Hazardous Waste Program. The bill would establish an Interagency Committee on Chemical Management to evaluate chemical inventories in the State and identify potential risks from the inventories. The bill would establish a private right of action for medical monitoring damages. The bill authorizes a citizen suit of action a person may commence for equitable or declaratory relief for violation of any solid waste or hazardous waste permit, standard, regulation, condition, requirement, prohibition, or order. The bill would require testing of new groundwater sources and potable water supplies for specified chemical parameters. The bill also would require manufacturers of consumer products to notify the Department of Health of the presence of a chemical of high concern in a consumer product. In addition, the bill would prohibit the manufacture, sale, or distribution in the State of dental floss or food contact

1 substances that contain perfluorooctanesulfonic acid.

2 An act relating to the regulation of toxic substances and hazardous materials

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

4 ~~*** Toxics Use Reduction ***~~

5 Sec. 1. 10 V.S.A. chapter 159, subchapter 2 is amended to read:

6 Subchapter 2. Toxics Use Reduction and Hazardous Waste Reduction

7 § 6623. GOALS AND PURPOSE

8 (a) The goals of this subchapter are to:

9 (1) eliminate or reduce the use of hazardous, particularly toxic,
10 materials wherever feasible;

11 (2) reduce the generation of hazardous waste;

12 (3) reduce the release into the environment of chemical contaminants
13 ~~which~~ that have adverse and serious health or environmental effects;

14 (4) document hazardous waste reduction and toxics use reduction
15 information; and

16 (5) make that information regarding the use of toxic substances in the
17 State available to State and local government and the public.

18 (b) It is the intent of this subchapter to encourage reduction of toxic

19 ~~substances and to reduce the generation of hazardous waste whenever~~

1 ~~technically and economically practicable, without shifting risks from one part~~
2 of a process, environmental medium, or product to another. Priority shall be
3 given to methods that reduce the amount of toxics used and, where that is not
4 technically and economically practicable, methods that reduce the generation
5 of hazardous waste.

6 § 6624. DEFINITIONS

7 ~~For purposes of As used~~ in this subchapter, in addition to the provisions of
8 section 6602 of this title, the following definitions apply:

9 (1) "Class A generator" means a generator who generates 1,000 kg
10 ~~(2,200 lbs) or more than an amount~~ of hazardous waste established by the
11 Secretary by rule in one calendar month.

12 (2) "Class B generator" means a generator who generates ~~more than~~
13 100 kg (220 lbs) ~~but less than 1,000 kg (2,200 lbs) of an amount of~~ hazardous
14 waste established by the Secretary in one calendar month and generates more
15 than 1,200 kg (2,640 lbs) ~~an amount of~~ hazardous waste established by the
16 Secretary by rule in one calendar year.

17 (3) "Exempt small quantity generator" means a generator, as defined by
18 40 CFR § 261.5, who generates less than 100 kg (220 lbs) of hazardous waste
19 or who generates less than 1 kg (2.2 lbs) of acute hazardous waste in one
20 calendar month.

21 ~~(4) "Large user" means a facility with 10 five or more full-time~~

1 ~~employees that is in the Standard Industrial Classification (SIC) Code required~~

2 by the Secretary to report and that:

3 (A) Manufactures, processes, or otherwise uses, exclusive of sales or
4 distribution, more than 4,545.5 kg (10,000 lbs) the amount established by the
5 Secretary by rule of a toxic substance per year; or

6 (B) Manufactures, processes, or otherwise uses, exclusive of sales or
7 distribution, more than 454.4 kg (1,000 lbs) but less than 4,545.5 kg
8 (10,000 lbs) the amount established by the Secretary by rule of a toxic
9 substance per year if that substance accounts for more than 10 percent of the
10 total of toxic substances used at the facility during the year.

11 (5)(A) "Hazardous waste reduction" means any recycling or other
12 activity applied after hazardous waste is generated that is consistent with the
13 general goal of reducing present and future threats to public health, safety, and
14 the environment. Reduction may be proportionate to the increase or decrease
15 in production or other business changes. The recycling or other activity shall
16 result in:

17 (i) the reduction of total volume or quantity of hazardous waste
18 generated that would otherwise be treated, stored, or disposed of; or

19 (ii) the reduction of toxicity of hazardous waste that would
20 otherwise be treated, stored, or disposed of; or

21 ~~(iii) both the reduction of total volume or quantity and the~~

1 ~~reduction of toxicity of hazardous waste.~~

2 (B) "Hazardous waste reduction" shall not:

3 (i) result in the significant transfer of hazardous constituents from
4 one environmental medium to another;

5 (ii) include concentrating waste solely for the purposes of
6 reducing volume;

7 (iii) use dilution as a means of reducing toxicity; or

8 (iv) include incineration.

9 (C) "Hazardous waste reduction" may include on-site and off-site
10 treatment where it can be shown that such treatment confers a higher degree of
11 protection of the public health, safety, and the environment than other
12 technically and economically practicable waste reduction alternatives.

13 (6) "Risk reduction" means a reduction in volume or toxicity, or both, of
14 a hazardous or toxic substance by a method that does not merely shift the risk
15 to another environmental medium; or create a new environmental risk to
16 human health or the environment.

17 (7)(A) "Toxic substance" or "toxics" mean any substance in a gaseous,
18 liquid, or solid state listed pursuant to under:

19 (i) Title III, Section 313 of the Superfund Amendments and
20 Reauthorization Act of 1986.

21 ~~(ii) the list of chemicals of high concern in 18 V.S.A. § 1773,~~

1 ~~(iii) a list adopted by the Secretary by rule under section 6625 of~~
2 ~~this title;~~

3 ~~(iv) the U.S. Environmental Protection Agency list of substances~~
4 ~~identified as persistent, bioaccumulative, and toxic chemical substances.~~

5 ~~The list of substances may be altered as specified in subsection~~
6 ~~6625(d) of this title.~~

7 ~~(B) “Toxic substance” or “toxics” does shall not include constituents~~
8 ~~of fuels used to provide energy, unless those fuels include hazardous wastes~~
9 ~~from a generator’s process.~~

10 ~~(8)(A) “Toxics use reduction” means in-plant changes in production or~~
11 ~~other processes or operations, products, or raw materials that reduce, avoid, or~~
12 ~~eliminate the use or production of toxic substances or raw materials that result~~
13 ~~in generation of hazardous wastes, without creating substantial new risks to~~
14 ~~public health, safety, and the environment, through the application of any of~~
15 ~~the following techniques:~~

16 ~~(i) input substitution, meaning to replace a toxic substance, or a~~
17 ~~raw material that results in the generation of hazardous waste, used in a~~
18 ~~production or other process or operation with a nontoxic or less toxic~~
19 ~~substance;~~

20 ~~(ii) product reformulation, meaning to modify an existing end~~
21 ~~product in order to reduce toxic substance inputs or raw materials that result in~~

1 the generation of hazardous wastes;

2 (iii) production or other process or operation redesign or
3 modifications;

4 (iv) production or other process or operation modernization,
5 including upgrading or replacing existing equipment and methods with other
6 equipment and methods;

7 (v) improved operation and maintenance controls of production or
8 other process or operation equipment and methods, by modifying or adding to
9 existing equipment or methods, including techniques such as improved
10 housekeeping practices, system adjustments, product and process inspections,
11 or production or other process or operation control equipment or methods; or

12 (vi) recycling, reuse, or extended use of toxics or raw materials
13 that result in the generation of hazardous waste, by using equipment or
14 methods that become an integral part of the production or other process or
15 operation of concern, including filtration and other methods.

16 (B) "Toxics use reduction" includes proportionate changes in the
17 usage of a particular toxic substance, or a raw material that results in the
18 generation of hazardous waste, by any of the methods set forth in subdivision
19 (8)(A) of this section as the usage of that toxic substance or raw material
20 changes as a result of production changes or other business changes.

21 (9) "Toxics use" means use or production of a toxic substance, exclusive

1 of sales or distribution

2 § 6025. TOXICS USE REDUCTION AND HAZARDOUS WASTE

3 REDUCTION PROGRAM

4 (a) The Secretary shall establish a program for toxics use reduction and
5 hazardous waste reduction pursuant to this subchapter.

6 (b) The Secretary shall coordinate the activities of all State agencies with
7 responsibilities and duties relating to toxics use and hazardous waste and shall
8 promote coordinated efforts to encourage toxics use reduction and hazardous
9 waste reduction, with emphasis on the merits of use reduction as a means of
10 reducing the amount of hazardous waste generated or hazardous material
11 released into the environment. Coordination between the program and other
12 relevant State agencies and programs shall, to the fullest extent possible,
13 include joint planning processes and joint research and studies.

14 (c) The planning and reporting requirements of this subchapter shall apply
15 only to generators who routinely generate, through ongoing process and
16 operation, more than ~~1,200 kg (2,640 lbs)~~ the amount of hazardous waste per
17 year established by the Secretary by rule or more than ~~12 kg (26.4 lbs)~~ the
18 amount of acutely hazardous waste per year established by the Secretary by
19 rule, and to large users.

20 (d) The Secretary shall adopt rules to carry out this subchapter. The rules
21 shall establish the amount of toxic substances manufactured, processed, or

1 ~~otherwise used, exclusive of sales or distribution that would designate a user a~~
2 large user under this chapter. The rules shall establish the amount of
3 hazardous waste or acutely hazardous waste generated per year that would
4 subject a generator to the planning requirements of subsection (c) of this
5 section. The rules shall establish the other thresholds or amount of toxic
6 substances used or hazardous waste generated that subject a user or generator
7 to requirements of this chapter. The rules shall include a provision for
8 exempting from the requirements of this subchapter generators for whom the
9 Secretary determines no source reduction opportunities exist. The Secretary
10 may, by rule, add or remove any toxic substance or hazardous waste from the
11 provisions of this subchapter. In order to add or remove any toxic substance or
12 hazardous waste from the provisions of this subchapter, the Secretary shall
13 make findings with respect to toxicity, potential impact on public health and
14 the environment, and the potential for use reduction or waste reduction of the
15 toxic substance or hazardous waste.

16 (e) The Secretary shall adopt, by rule, a list of SIC codes that identifies
17 those facilities that are subject to this subchapter as a large user. The list
18 initially must include SIC codes 20 through 39. In adding additional SIC
19 codes, the Secretary shall make findings with respect to chemical use within
20 the SIC category, and shall find:

21 ~~(1) that the potential impact on public health and the environment is~~

1 ~~significant; and~~

2 (2) that the potential for use reduction and waste reduction within the
3 category is significant.

4 (f) This subchapter shall not apply to farmers, dealers, or applicators
5 regulated under 6 V.S.A. chapters 81 and 87, or any other persons to the extent
6 they are regulated under any other chapters of Title 6.

7 § 6626. PLAN AND REPORT FORMATS; DATA INFORMATION
8 SYSTEM

9 (a) ~~On or before January 1, 1992, the~~ The Secretary shall adopt a format to
10 be used by generators and large users for completing the toxics use reduction
11 and hazardous waste reduction plan required by section 6629 of this title. ~~On~~
12 ~~or before July 1, 1993, the~~ The Secretary shall adopt a format for the toxics
13 use reduction and hazardous waste reduction performance report required by
14 section 6630 of this title.

15 (b) ~~On or before July 1, 1992, After consultation with the Interagency~~
16 Committee on Chemical Management, the Secretary shall establish ~~a data and~~
17 ~~information system~~ a unified electronic reporting system for use in
18 administering the provisions of this subchapter. In establishing the ~~data and~~
19 ~~information system~~ unified electronic reporting system, the Secretary shall:

20 (1) establish methods and procedures for appropriately processing of
21 ~~managing hazardous waste reduction and toxics use reduction information,~~

1 ~~(2) use the data management expertise, resources, and forms of already~~
2 established environmental protection programs, to the extent practicable;

3 ~~(3) establish computerized data retrieval and data processing systems,~~
4 including safeguards to protect trade secrets designated pursuant to section
5 6632 of this title or protected under 1 V.S.A. § 317;

6 ~~(4) identify additional data and information needs of the program; and~~

7 ~~(5) provide the public with nonconfidential information regarding the~~
8 use of toxic substances and the generation of hazardous wastes in each
9 municipality of the State.

10 § 6627. TECHNICAL AND RESEARCH ASSISTANCE PROGRAM

11 The Secretary shall establish a technical and research assistance program to
12 assist generators, exempt small quantity generators, and large users in
13 identifying and applying toxics use reduction methods and hazardous waste
14 reduction methods. The program shall emphasize assistance to smaller
15 businesses ~~which~~ that have inadequate technical and financial resources to
16 obtain information, assess and develop and apply toxics use reduction and
17 hazardous waste reduction methods. The program shall also emphasize the
18 merits of use reduction as a means of reducing the amount of hazardous waste
19 generated or hazardous materials released into the environment. In the
20 program:

21 ~~(1) The Department shall encourage presentations by private or public~~

1 ~~consultants, including onsite consultation at sites or locations where hazardous~~
2 waste is generated or toxic substances are used, to aid those generators or large
3 users requiring assistance in developing and implementing the toxics use
4 reduction and hazardous waste reduction plan, plan summary, and performance
5 report required by this subchapter.

6 (2) The Department shall conduct plan assistance programs, seminars,
7 workshops, training programs, and other similar activities to assist generators
8 and large users to evaluate toxics use reduction and hazardous waste reduction
9 alternatives and to identify opportunities for toxics use reduction and
10 hazardous waste reduction.

11 (3) The Department shall establish a program to assemble, catalogue,
12 and disseminate information about source reduction methods, with emphasis
13 on the merits of use reduction, available consultant services, and regulatory
14 requirements.

15 (4) The Department shall identify the range of technical solutions that
16 can be applied by particular types of hazardous waste generators to reduce
17 hazardous waste generation.

18 (5) The Department may also direct on-site technical assistance to
19 generators and large users in developing the plans.

20 (6) The Department shall coordinate its technical assistance with trade
21 associations and local colleges and universities as appropriate.

1 ~~(7) Technical services provided under this section shall not result in~~
2 inspection or other enforcement actions unless there is reasonable cause to
3 believe there is an imminent threat to human health or the environment.

4 (8) The Department shall provide direct technical assistance to solid
5 waste management districts and regional planning entities, including training
6 and information exchange, and shall coordinate technical assistance with the
7 solid waste management districts and regional planning entities.

8 § 6628. PLAN, PLAN SUMMARY, AND PERFORMANCE REPORT
9 REVIEW

10 (a) Except as provided for in this section, a toxics use reduction and
11 hazardous waste reduction plan developed under this subchapter shall be
12 retained at the facility and is not a public record under 1 V.S.A. § 317. If a
13 person developing a toxics use reduction and hazardous waste reduction plan
14 under this chapter chooses to send all or a portion of the plan to the Secretary
15 for review, it is exempt from public inspection and copying under the Public
16 Records Act and shall be kept confidential. A plan summary submitted
17 pursuant to section 6629 of this title shall be submitted to the Secretary and
18 shall be a public record.

19 (b) For the purposes of this subchapter, a Class A generator, Class B
20 generator, or large user shall permit any designated employee of the
21 Department to inspect the toxics use reduction and hazardous waste

1 reduction plan

2 (c) The Department may review a plan, plan summary, or annual
3 performance report to determine whether the plan, plan summary, or
4 performance report is adequate according to the provisions of sections 6629
5 and 6630 of this title. If a Class A generator, Class B generator, or large user
6 fails to complete an adequate plan, plan summary, or annual performance
7 report, the Department, upon review of the plan, plan summary, or
8 performance report shall notify the generator or user of the inadequacy,
9 identifying the specific deficiencies. The Department shall specify a
10 reasonable time frame of not less than 90 days nor more than 180 days within
11 which the generator or user shall modify a plan, plan summary, or performance
12 report to address the specified deficiencies, and the Department shall make
13 technical assistance available to aid the generator or user in modifying its plan,
14 plan summary, or performance report.

15 (d) If the Department determines that a modified plan, plan summary, or
16 performance report is inadequate, the Department may either require further
17 modification or issue an administrative order pursuant to subsection (e) of this
18 section.

19 (e) If after having received a list of specified deficiencies from the
20 Department, a Class A generator, Class B generator, or large user fails to
21 develop an adequate plan, plan summary, or performance report within a time

1 ~~frame specified pursuant to subsection (c) or (d) of this section, the~~
2 Department may order that generator or user to submit an adequate plan, plan
3 summary, or performance report within a reasonable time frame of not less
4 than 90 days. If the generator or user fails to develop an adequate plan, plan
5 summary, or performance report within the time frame specified, a meeting
6 shall be held between the generator or user, the Department, and the Secretary
7 in a final attempt to resolve outstanding concerns and issues. If no
8 compromise can be reached to modify the plan, plan summary, or performance
9 report, the generator or large user shall submit to the Secretary any inadequate
10 plan, and the Department shall conduct a public hearing on the plan, plan
11 summary, or performance report. Except as provided under 1 V.S.A. § 317, in
12 any hearing under this section, the relevant plan, plan summary, or
13 performance report shall be considered a public record as defined in 1 V.S.A. §
14 317.

15 (f) On or after October 1, 1992, and every two years thereafter, the
16 Secretary shall select, by the SIC Code, at least two categories of generators
17 with potential for toxics use reduction and hazardous waste reduction and
18 shall:

19 (1) examine the plans of selected generators and large users in the
20 category, unless the Secretary determines that Agency resources are inadequate
21 to complete plan reviews for all generators and users in the category, in which

1 ~~case the Secretary need only complete those that resources will accommodate;~~

2 (2) determine whether the selected generators and large users that are
3 reviewed comply with section 6629 of this title;

4 (3) identify successful toxics use reduction and hazardous waste
5 reduction approaches, including risk reduction, employed by generators and
6 large users in the category and disseminate information concerning those
7 approaches to generators and large users within the category.

8 ~~(g) On or after October 1, 1992 for Class A generators, on or after July 1,~~
9 ~~1993 for Class B generators, and on or after July 1, 1996 for large users, the~~
10 ~~The Secretary may inspect the plan, plan summary, or performance report. For~~
11 ~~generators, that are both Class A or Class B generators and large users, the~~
12 ~~toxics use reduction portion of the plan required for chemicals included in the~~
13 ~~planning process solely by the large user definition is not due until July 1,~~
14 ~~1996.~~

15 (h) In reviewing the adequacy of any plan, plan summary, or performance
16 report, the Department shall base its determination solely on whether the plan,
17 plan summary, or performance report is complete and prepared in accordance
18 with section 6629 or 6630 of this title. The Department shall consider
19 information provided under subsection 6629(b) in its review.

20 (i) The Department shall maintain a log of each plan, plan summary, or
21 ~~performance report it reviews, a list of all plans, plan summaries, or~~

1 ~~performance reports that have been found inadequate under subsection (e) of~~
2 this section; and descriptions of corrective actions taken. This information
3 shall be available to the public at the Department's office.

4 (j) Fees shall be submitted annually on March 31. Fees shall be submitted
5 to the Secretary and deposited into the hazardous waste management account
6 of the Waste Management Assistance Fund established under section 6618 of
7 this title. Fees shall be computed according to the following:

8 (1) \$400.00 per toxic ~~chemical~~ substance identified pursuant to
9 subdivision 6629(c)(4) of this title.

10 (2) \$400.00 per hazardous waste stream identified pursuant to
11 subdivision 6629(c)(3) of this title.

12 (3) Up to a maximum amount of:

13 (A) \$2,000.00 per plan for Class A generators.

14 (B) \$400.00 per plan for Class B generators.

15 (C) \$2,000.00 per plan for large users.

16 (D) \$4,000.00 per plan for Class A generators that are large users.

17 (E) \$1,200.00 per plan for Class B generators that are large users.

18 § 6629. TOXICS USE REDUCTION AND HAZARDOUS WASTE

19 REDUCTION PLAN; PLAN SUMMARY

20 (a) Each Class A and Class B generator and each large user shall prepare a
21 ~~toxics use reduction and hazardous waste reduction plan for any toxic~~

1 ~~substance or hazardous waste identified pursuant to subdivisions (c)(3) or~~
2 ~~(c)(4) of this section. Initial plans shall be due: on or before October 1, 1992~~
3 ~~for Class A generators; on or before July 1, 1993 for Class B generators; and~~
4 ~~on or before July 1, 1996 for large users. Updated plans shall be prepared no~~
5 ~~later than July 1, 1996 and every third July 1 thereafter. Plans shall be updated~~
6 ~~on or before July 1 every three years after the date of the submission of the~~
7 ~~initial plan. For generators that are both Class A or Class B generators and~~
8 ~~large users, the toxics use reduction portion of the plan required for chemicals~~
9 ~~included in the planning process, solely by the large user definition is due on~~
10 ~~July 1, 1996 as an integrated component of a toxics use and hazardous waste~~
11 ~~reduction plan. A toxics use reduction and hazardous waste reduction plan~~
12 ~~shall:~~

13 (1) determine any toxics use reduction and hazardous waste reduction
14 methods that may be implemented to reduce the use of toxic substances and
15 hazardous waste generated without significantly shifting risks from one part of
16 a process, environmental medium, or product to another; and

17 (2) include a plan to document and implement toxics use reduction
18 methods and hazardous waste reduction methods identified in subdivision (1)
19 of this subsection which are technically and economically feasible for the
20 generator, including performance goals for the reduction of toxic substances
21 and hazardous waste, and including a reasonable implementation schedule.

1 ~~(b) A facility required to complete a toxics use reduction and hazardous~~
2 waste reduction plan may include as a preface to its initial plan:

3 (1) ~~An an explanation and documentation regarding toxics use reduction~~
4 ~~and hazardous waste reduction efforts completed or in progress before the first~~
5 ~~reporting date; and~~

6 (2) ~~An an explanation and documentation regarding impediments to~~
7 ~~toxics use reduction and hazardous waste reduction specific to the individual~~
8 ~~facility.~~

9 (c) The toxics use reduction and hazardous waste reduction plan shall be
10 prepared for each site pursuant to the format adopted under section 6626 of
11 this title and shall include:

12 (1) The name and location of the site, including State plane coordinates.

13 (2) The SIC Codes of the site.

14 (3) Identification of each routinely generated hazardous waste resulting
15 from ongoing processes or operations that has:

16 (A) a yearly weight exceeding five percent of the total yearly weight
17 of hazardous waste generated;

18 (B) for acutely hazardous waste, a yearly weight exceeding five
19 percent of the total yearly weight of acutely hazardous waste generated at
20 the site.

21 ~~(4) Identification of each routinely used toxic substance resulting from~~

1 ~~ongoing processes or operations, exclusive of sale or distribution, that has:~~

2 (A) a yearly weight ~~exceeding 4,545.5 kg (10,000 lbs)~~ established by
3 the Secretary by rule; or

4 (B) a yearly weight of ~~between 454.5 kg (1,000 lbs) and 4,545.4 kg~~
5 ~~(10,000 lbs)~~ established by the Secretary by rule if the toxic substance
6 comprises 10 percent or more of the total toxic substances used;

7 (5) For each toxic substance and hazardous waste identified in
8 subdivision (3) or (4) of this subsection, the plan shall include:

9 (A) an estimate of the quantity of toxic substance, or raw material
10 resulting in hazardous waste, used and hazardous waste generated;

11 (B) an evaluation of feasible toxics use reduction and hazardous
12 waste reduction methods available to the generator or large user.

13 (6) A specification of, and a rationale for the technically and
14 economically feasible toxics use reduction and hazardous waste reduction
15 methods which will be taken by the generator or large user with respect to each
16 toxic substance or hazardous waste identified in subdivision (3) or (4) of this
17 subsection. The plan shall give priority to toxics use reduction methods. The
18 plan shall document the generator's or large user's rationale for rejecting any
19 available toxics use reduction or hazardous waste reduction method identified
20 in subdivision (5) of this subsection. The generator or large user shall have the
21 ~~sole and final authority to determine which, if any, toxics use reduction or~~

1 ~~hazardous waste reduction methods will be implemented.~~

2 (7) An evaluation of the effects of the chosen toxics use reduction or
3 hazardous waste reduction method on emissions and discharges to air, water,
4 or land, and with respect to whether or not that method adversely affects
5 compliance with applicable laws and regulations.

6 (8) A written statement articulating upper management and corporate
7 policy with respect to the toxics use reduction and hazardous waste reduction
8 plan and a commitment to implement plan goals.

9 (9) A description of employee awareness programs which may include
10 training programs specific to the implementation of the planning process to
11 inform and involve the employees in toxic use reduction and hazardous waste
12 reduction planning and implementation to the extent technically and
13 economically feasible.

14 (d) As part of each plan developed under this section, a large user or
15 generator shall establish specific performance goals for the reduction of toxics
16 and hazardous waste in the following categories:

17 (1) Any toxic substance used per year in quantities in excess of 4,545.5
18 kg (10,000 lbs) a year or any toxic substance used in quantities between 454.5
19 kg (1,000 lbs) and 4,545.5 kg (10,000 lbs) per year that constitutes 10 percent
20 or more of the total toxic substances used an amount established by the
21 Secretary by rule.

1 ~~(2) For Class A and Class B generators, any amount established by~~
2 ~~the Secretary by rule of hazardous waste representing 10 percent or more by~~
3 ~~weight of the cumulative hazardous waste stream generated per year generated~~
4 ~~per year.~~

5 (3) ~~Whenever technically and economically practicable, the~~ The specific
6 performance goals established shall be expressed in numeric terms. If the
7 establishment of numeric goals is not practicable, the performance goals shall
8 include a clearly stated list of objectives designed to lead to the establishment
9 of numeric goals as soon as is practicable.

10 (e) Each generator or large user shall explain the rationale for each
11 performance goal. The rationale for a particular performance goal shall
12 address any impediments to toxics use reduction and hazardous waste
13 reduction, including the following:

14 (1) The availability of technically practicable toxics use reduction and
15 hazardous waste reduction methods, including any anticipated changes.

16 (2) The economic practicability of available toxics use reduction and
17 hazardous waste reduction methods, including any anticipated changes.

18 Examples of situations where toxics use reduction or hazardous waste
19 reduction may not be economically practicable include:

20 (A) For valid reasons of prioritization, a particular facility has chosen
21 ~~to first address other more serious toxics use reduction or hazardous waste~~

1 reduction concerns

2 (B) Necessary steps to reduce toxics use and hazardous waste are
3 likely to have significant adverse impacts on product quality.

4 (C) Legal or contractual obligations interfere with the necessary steps
5 that would lead to toxics use reduction or hazardous waste reduction.

6 (f) Class A and Class B generators and large users shall prepare and submit
7 plan summaries and updated plan summaries by the respective deadlines
8 established under subsection (a) of this section for the completion of plans and
9 updated plans. The plan summary shall include:

10 (1) For each toxic substance or hazardous waste identified in
11 subdivision (c)(3) or (c)(4) of this section, a matrix form that indicates the
12 toxics use reduction and hazardous waste reduction methods the large user or
13 generator plans to implement in the next three years. On the horizontal axis of
14 the matrix shall be listed the toxics use reduction and hazardous waste
15 reduction methods of: input substitution, product reformulation, production
16 unit redesign, production unit modernization, improved operation and
17 maintenance of production units, recycling or reuse integral to the production
18 unit, and recycling outside the production process after the waste is generated.
19 On the vertical axis shall be listed the following: method not considered,
20 method considered but rejected (economic feasibility), method considered but
21 rejected (technical feasibility), and method to be implemented. The large user

1 or generator shall mark the intersection of a reduction or management
2 technique on the horizontal axis with one of the options in the vertical axis.
3 The larger user or generator shall provide a general written description of the
4 information provided in the matrix and may provide any additional
5 information to summarize the plan.

6 (2) A list of toxic substances and hazardous wastes that are covered by
7 the plan.

8 (3) A written statement articulating upper management and corporate
9 policy with respect to the toxics use reduction and hazardous waste reduction
10 plan and a commitment to implement plan goals.

11 (4) As an option, a description of the specific performance goals
12 established under subsection (d) of this section.

13 (g) A toxics use reduction and hazardous waste reduction plan required
14 under this section shall be prepared by a certified planner who meets the
15 requirements of section 6629a of this title.

16 § 6629a. TOXICS USE REDUCTION PLANNERS; PLANNING

17 PROGRAM

18 (a) Toxic use reduction plans required under section 6629 of this title shall
19 be completed only by a toxics use reduction planner certified by the Secretary
20 under this section.

21 (b) The Secretary shall certify a person as a toxics use reduction planner, if

1 the person:

2 (1) satisfactorily completed a toxics use reduction planning program
3 developed under subsection (f) of this section and passed a uniform
4 certification examination prepared by the Secretary; or

5 (2) has at least two years of work experience in toxics use reduction
6 activities, subject to the limitation on scope of work in subsection (c) of this
7 section.

8 (c) A person who qualifies as a toxics use reduction planner under
9 subdivision (b)(2) of this section who has not satisfactorily completed the
10 toxics use reduction planning program and passed the uniform certification
11 examination shall only be authorized to engage in toxics use reduction
12 activities in the facilities owned or operated by his or her employer.

13 (d) Certification under this section shall be for not more than two years and
14 shall be renewable for additional two-year periods. For a certification to be
15 renewed, a toxics use reduction planner shall successfully complete continuing
16 education instruction established by the Secretary by rule.

17 (e) The Secretary may suspend or revoke a certification issued under this
18 section based on a finding of fraud, gross negligence in the certification of
19 toxics use reduction plans, or other good cause.

20 (f) The Secretary, after consultation with the Commissioner of Health, shall
21 establish a toxics use reduction planning program for individuals who wish to

1 ~~be certified as toxics use reduction planners under this section.~~

2 ~~(g) The Secretary may adopt rules to implement the requirements of this~~
3 ~~section.~~

4 § 6630. TOXICS USE REDUCTION AND HAZARDOUS WASTE
5 REDUCTION PERFORMANCE REPORT

6 (a) ~~On or before March 31, 1994, or March 31 of the year following the~~
7 ~~first plan, whichever is later, and annually thereafter, Annually on or before~~
8 ~~March 1, each generator or large user shall prepare and submit a hazardous~~
9 ~~materials management performance report to the House Committee on Natural~~
10 ~~Resources, Fish and Wildlife and the Senate Committees Committee on~~
11 ~~Natural Resources and Energy, documenting toxics use reduction and~~
12 ~~hazardous waste reduction methods implemented by the generator or~~
13 ~~large user.~~

14 (b) The performance report shall be prepared for each site in accordance
15 with the format adopted pursuant to section 6626 of this title, and shall
16 include:

- 17 (1) The name and location of the site, including State plane coordinates.
- 18 (2) The SIC Code for the site.
- 19 (3) The following information for each hazardous waste or toxic
20 substance identified under subsection 6629(c) of this title:

21 ~~(A) an estimate of the quantity of hazardous waste generated and the~~

1 ~~quantity of hazardous waste managed, both onsite and offsite, during the~~
2 ~~current reporting year and the baseline year, as specified in subsection (c) of~~
3 ~~this section;~~

4 ~~(B) an estimate of the quantity of toxic substances, or raw material~~
5 ~~resulting in hazardous waste, used during the current reporting year and the~~
6 ~~baseline year, as specified in subsection (c) of this section;~~

7 ~~(C) an estimate of the percentage of toxics use reduction and~~
8 ~~hazardous waste reduction achieved by each toxics use reduction and~~
9 ~~hazardous waste reduction measure implemented since the baseline year as~~
10 ~~specified in subsection (c) of this section;~~

11 ~~(D) an assessment of the effect, during the current year, of each~~
12 ~~hazardous waste reduction measure and toxics use reduction measure~~
13 ~~implemented since the baseline year relative to each performance goal~~
14 ~~established in subsection 6629(d) of this title;~~

15 ~~(E) a description of factors during the current reporting year that~~
16 ~~have affected toxics use, hazardous waste generation, releases into the~~
17 ~~environment caused by use or waste generation as defined by the large user,~~
18 ~~Class A generator, and Class B generator status, and onsite and offsite~~
19 ~~hazardous waste management since the baseline year, including:~~

20 ~~(i) changes in business activity;~~

21 ~~(ii) changes in waste classification,~~

1 ~~(iii) natural phenomena;~~

2 (iv) other factors that have affected either the quantity of toxics
3 used or hazardous waste generated or onsite and offsite hazardous waste
4 management requirements;

5 (F) a description of wastes concentrated solely for purposes of
6 reducing volume.

7 (c) ~~For purposes of As used in~~ subsection (b) of this section, the following
8 definitions apply:

9 (1) The current reporting year is the calendar year immediately
10 preceding the year in which the report is to be prepared.

11 (2) The baseline year is either of the following, whichever is applicable:

12 (A) For the initial performance report, the baseline year is the
13 calendar year selected by the generator or large user for which substantial
14 toxics use, hazardous waste generation, or onsite or offsite management data is
15 available, before the initial planning year. If the generator or large user selects
16 the initial planning year as the baseline year for the initial report, the
17 information required pursuant to subdivision ~~(3)~~ of subsection ~~(b)~~(3) of this
18 section, for the initial report shall be provided for the initial planning year.

19 The generator or large user may include as part of the report a description of
20 accomplishments in toxics use reduction and hazardous waste reduction prior

21 ~~to the baseline year.~~

1 ~~(P) For all subsequent reports, the information of subsection (b) of~~
2 this section shall be compared against the baseline year, the plan year and the
3 year immediately preceding this report if different than the plan year.

4 (d) Every report completed pursuant to this section shall be submitted by
5 the generator or large user for review and certification by an engineer who is
6 registered as a Vermont professional engineer or by an individual who is
7 responsible for the processes and operation of the site.

8 § 6632. TRADE SECRETS

9 The Secretary shall adopt rules to ensure that trade secrets designated by a
10 generator in all or a portion of the review and plans, and the report required by
11 this subchapter, which are exempt from public inspection and copying under
12 1 V.S.A. § 317(c)(9), shall be used by the Secretary, the Department, and any
13 authorized representative of the Department only in connection with the
14 responsibilities of the Department pursuant to this subchapter, and otherwise
15 shall be kept confidential.

16 § 6633. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT

17 (a) Creation. There is created the Interagency Committee on Chemical
18 Management in the State to:

- 19 (1) evaluate chemical inventories in the State on an annual basis,
20 (2) identify potential risks to human health and the environment from
21 chemical inventories in the State, and

1 ~~(2) propose measures or mechanisms to address the identified risks from~~
2 ~~chemical inventories in the State.~~

3 ~~(b) Membership. The Interagency Committee on Chemical Management~~
4 ~~shall be composed of the following five members:~~

5 ~~(1) the Secretary of Agriculture, Food and Markets or designee;~~

6 ~~(2) the Secretary of Natural Resources or designee;~~

7 ~~(3) the Commissioner of Health or designee;~~

8 ~~(4) the Commissioner of Labor or designee; and~~

9 ~~(5) the Commissioner of Public Safety or designee.~~

10 ~~(c) Powers and duties. The Interagency Committee on Chemical~~
11 ~~Management shall:~~

12 ~~(1) Convene a citizen advisory panel to provide input and expertise to~~
13 ~~the Committee. The citizen advisory panel shall consist of persons with~~
14 ~~expertise in:~~

15 ~~(A) toxicology;~~

16 ~~(B) environmental law;~~

17 ~~(C) pollution prevention;~~

18 ~~(D) environmental health;~~

19 ~~(E) public health;~~

20 ~~(F) risk analysis;~~

21 ~~(G) maternal and child health care,~~

1 (H) occupational health;
2 (I) industrial hygiene; and
3 (J) public policy.
4 (2) Consult with the citizen advisory panel to develop a
5 recommendation of how to establish a centralized or unified electronic
6 reporting system to facilitate compliance by businesses and other entities in the
7 State with the chemical reporting and other regulatory requirements in the
8 State.
9 (3) Develop reporting forms and guidance for businesses to help
10 streamline reporting and ensure compliance with chemical and toxic substance
11 reporting requirements.
12 (4) Monitor actions taken by the U.S. Environmental Protection Agency
13 (EPA) to regulate chemicals under the Toxic Substances Control Act,
14 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action
15 relevant to the jurisdiction of the agency.
16 (5) Annually review chemical inventories in the State in relation to
17 emerging scientific evidence in order to identify chemicals of high concern not
18 regulated by the State.
19 (d) Assistance. The Interagency Committee on Chemical Management
20 shall have the administrative, technical, and legal assistance of the Agency of
21 Natural Resources, the Agency of Agriculture, Food and Markets, the

1 ~~Department of Health; the Department of Public Safety; and the Department~~
2 ~~of Labor.~~

3 ~~(e) Report. On or before January 15, and annually thereafter, the~~
4 ~~Interagency Committee on Chemical Management shall report to the Senate~~
5 ~~Committees on Natural Resources and Energy, on Health and Welfare, and on~~
6 ~~Economic Development, Housing and General Affairs, and the House~~
7 ~~Committees on Natural Resources, Fish and Wildlife, on Health Care, and on~~
8 ~~Commerce and Economic Development, regarding the actions of the~~
9 ~~Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of~~
10 ~~required reports shall not apply to the report to be made under this section.~~

11 ~~The report shall:~~

12 ~~(1) In the first report:~~

13 ~~(A) recommend how the State should establish a centralized or~~
14 ~~unified electronic reporting system to facilitate compliance by businesses and~~
15 ~~other entities in the State with the chemical reporting and other regulatory~~
16 ~~requirements in the State;~~

17 ~~(B) recommend a State agency to establish and administer the~~
18 ~~reporting system;~~

19 ~~(C) estimate the staff and funding necessary to administer the~~
20 ~~reporting system; and~~

21 ~~(D) estimate a time line for establishment of the reporting system.~~

1 ~~(2) Summarize the activities of the Interagency Committee on Chemical~~
2 ~~Management.~~

3 ~~(3) Estimate or summarize the known chemical inventories in the State.~~

4 ~~(4) Summarize any change under federal statute or rule affecting the~~
5 ~~regulation of chemicals in the State.~~

6 ~~(5) Identify new or emerging chemicals of high concern and~~
7 ~~recommended legislative or regulatory actions to address the risks posed by~~
8 ~~new or emerging chemicals of high concern.~~

9 ~~(6) Recommend legislative or regulatory action to reduce health risks~~
10 ~~from exposure to chemicals of high concern and reduce risks of harm to the~~
11 ~~natural environment.~~

12 ~~(f) Meetings.~~

13 ~~(1) The Secretary of Natural Resources shall call the first meeting of the~~
14 ~~Interagency Committee on Chemical Management to occur on or before July~~
15 ~~1, 2017.~~

16 ~~(2) The Committee shall select a chair from among its members at the~~
17 ~~first meeting.~~

18 ~~(3) A majority of the membership of the Interagency Committee on~~
19 ~~Chemical Management shall constitute a quorum.~~

20 ~~(g) Authority of agencies. The establishment of the Interagency~~
21 ~~Committee on Chemical Management shall not limit the independent authority~~

1 ~~of a State agency to regulate chemical use or management under existing State~~
2 ~~or applicable federal law.~~

3 Sec. 2. STAFF INTERAGENCY COMMITTEE ON CHEMICAL
4 MANAGEMENT

5 In addition to any other funds appropriated to the Agency of Natural
6 Resources in fiscal year 2018, there is appropriated to the Agency \$100,000.00
7 in fiscal year 2018 for the purpose of hiring an employee to staff the
8 Interagency Committee on Chemical Management established under 10 V.S.A.
9 § 6633.

10 Sec. 3. RULEMAKING; TOXIC USE REDUCTION AND HAZARDOUS
11 WASTE REDUCTION PROGRAM

12 The Secretary of Natural Resources shall adopt the rules required under
13 10 V.S.A. § 6625 on or before July 1, 2019.

14 * * * Citizen Suit Right of Action * * *

15 Sec. 4. 10 V.S.A. § 6610b is added to read:

16 § 6610b. CITIZEN RIGHT OF ACTION

17 (a) Suit authorized. Except as provided in subsection (b) of this section, a
18 person may commence a civil action for equitable or declaratory relief on the
19 person's own behalf against any one of the following persons:

20 (1) Any person who is alleged to be in violation of any permit, standard,
21 regulation, condition, requirement, prohibition, or order issued or required

1 ~~under this chapter.~~

2 (2) Any person who has contributed or who is contributing to the past or
3 present handling, storage, treatment, transportation, or disposal of a solid
4 waste or hazardous waste that may present an imminent and substantial
5 endangerment to health or the environment, including any past or present
6 generator, past or present transporter, or past or present owner or operator of a
7 facility.

8 (3) The Secretary when there is an alleged failure of the Agency to
9 perform any act or duty under this chapter that is not discretionary for the
10 Secretary or the Agency.

11 (b) Prerequisite to commencement of action. A person shall not commence
12 an action under subsection (a) of this section prior to 60 days after the plaintiff
13 has given notice of the violation to:

14 (1) the Secretary;

15 (2) any person alleged to be in violation of a permit, standard,
16 regulation, condition, requirement, prohibition, or order issued or required
17 under this chapter; and

18 (3) where applicable, any person alleged to have contributed or to be
19 contributing to the past or present handling, storage, treatment, transportation,
20 or disposal of any solid or hazardous waste.

21 ~~(c) Action prohibited. A person shall not commence an action under~~

1 subsection (a) of this section under any of the following circumstances:

2 (1) If the Secretary or the Attorney General has commenced and is
3 diligently prosecuting a civil or criminal action to require compliance with a
4 permit, standard, regulation, condition, requirement, prohibition, or order
5 issued or required under this chapter.

6 (2) If the alleged violator is actually engaging in a removal action under
7 this chapter.

8 (3) If the alleged violator has incurred costs to initiate a remedial action
9 under this chapter and is diligently proceeding with the remedial action.

10 (4) If the Secretary has obtained an administrative order, including an
11 assurance of discontinuance, under section 201 of this title pursuant to which a
12 responsible party is diligently conducting a removal action, remedial
13 investigation, or remedial action.

14 (5) With respect to the siting of a hazardous waste facility, nor to
15 restrain or enjoin the issuance of a permit for such facility.

16 (d) Venue. A person shall bring an action under subsection (a) of this
17 section in the Environmental Division of the Superior Court.

18 (e) Intervention. In any action under subsection (a) of this section:

19 (1) Any person may intervene as a matter of right when the person
20 seeking intervention claims an interest relating to the subject of the action and
21 he or she is so situated that the disposition of the action may, as a practical

1 ~~matter, impair or impede his or her ability to protect that interest, unless the~~

2 Secretary shows that the applicant's interest is adequately represented by
3 existing parties.

4 (2) The Secretary or the Attorney General may intervene as a matter of
5 right as a party to represent its interests.

6 (f) Notice of action. A person bringing an action under subsection (a) of
7 this section shall provide the notice required under subsection (b) of this
8 section in writing. The notice shall be served on the alleged violator in person
9 or by certified mail, return receipt requested. The notice to the Secretary shall
10 be served by certified mail, return receipt requested. The notice shall include a
11 brief description of the alleged violation and identification of the statute, rule,
12 permit, assurance, or order that is the subject of the violation.

13 (g) Attorney's fees; costs. The Environmental Division of the Superior
14 Court may award costs, including reasonable attorney's fees and fees for
15 expert witnesses, to a person bringing an action under subsection (a) of this
16 section when the court determines that the award is appropriate.

17 (h) Rights preserved. Nothing in this section shall be construed to impair
18 or diminish any common law or statutory right or remedy that may be
19 available to any person. Rights and remedies created by this section shall be in
20 addition to any other right or remedy, including the authority of the State to
21 bring an enforcement action separate from an action brought under this

1 ~~section. No determination made by a court in an action maintained under this~~
2 section, to which the State has not been a party, shall be binding upon the State
3 in any enforcement action.

4 Sec. 5. 10 V.S.A. § 8022 is added to read:

5 § 8022. CITIZEN RIGHT OF ACTION; PUBLIC PARTICIPATION

6 A person commencing a right of action under section 6610b of this title
7 shall comply with the public participation requirements of the Secretary under
8 section 8020 of this title, provided that the person commencing the a right of
9 action shall submit to the Secretary a proposed order resolving the action for
10 purposes of posting the proposed order for 30 days for public notice and
11 written comment.

12 * * * Strict Liability; Toxic Substance Release * * *

13 Sec. 6. 10 V.S.A. chapter 159, subchapter 6 is added to read:

14 Subchapter 6. Strict Liability for Toxic Exposure

15 § 6685. DEFINITIONS

16 As used in this subchapter:

17 (1) “Harm” means any personal injury or property damage.

18 (2) “Release” means any intentional or unintentional, permitted or
19 unpermitted, act or omission that allows a toxic substance to enter the air, land,
20 surface water, groundwater, or any other place where the toxic substance may
21 be located.

1 ~~(2) "Toxic substance" means any substance identified as toxic or~~
2 ~~hazardous under state or federal law, or mixture thereof, or any other substance~~
3 ~~that has been shown at any time to cause increased risk of disease.~~

4 § 6686. LIABILITY FOR EXPOSURE TO TOXIC SUBSTANCES

5 (a) Any person who releases a toxic substance shall be held strictly, jointly,
6 and severally liable for any harm resulting from the release.

7 (b) Any person held liable under subsection (a) of this section shall have
8 the right to seek contribution from any other person who caused or contributed
9 to the release. The right to contribution under this subsection shall include the
10 right to seek contribution from a chemical manufacturer that failed to warn a
11 person of a toxic substance's propensity to cause the harm complained of.

12 (c) Nothing in this section shall be construed to supersede or diminish in
13 any way existing remedies available to a person at common law or under
14 statute.

15 * * * Medical Monitoring Damages * * *

16 Sec. 7. 12 V.S.A. chapter 219 is added to read:

17 CHAPTER 219. MEDICAL MONITORING DAMAGES

18 § 7201. DEFINITIONS

19 As used in this chapter:

20 (1) "Disease" means any disease, ailment, or adverse physiological or
21 chemical change linked with exposure to a toxic substance.

1 ~~(2) "Exposure" means ingestion, inhalation, contact with the skin or~~
2 ~~eyes, or any other physical contact.~~

3 ~~(3) "Medical monitoring damages" means the cost of medical tests or~~
4 ~~procedures and related expenses incurred for the purpose of detecting latent~~
5 ~~disease resulting from exposure.~~

6 ~~(4) "Toxic substance" means any substance identified as toxic or~~
7 ~~hazardous under State or federal law, or mixture thereof, or any other~~
8 ~~substance that has been shown at any time to cause increased risk of disease.~~

9 § 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO
10 TOXIC SUBSTANCES

11 (a) Any person may recover medical monitoring damages from exposure to
12 a toxic substance resulting from another's tortious conduct with or without a
13 present injury or disease.

14 (b) To recover medical monitoring damages, a person must prove by a
15 preponderance of the evidence that:

16 (1) The person was exposed to a toxic substance.

17 (2) There is a probable link between exposure to the toxic substance and
18 a disease or diseases.

19 (3) The person's exposure is the result of another's tortious conduct,
20 including negligence, battery, strict liability, trespass, and nuisance.

21 ~~(4) The person's exposure to the toxic substance increases the risk of~~

1 ~~developing a disease. A person does not need to prove that the disease is~~
2 certain or likely to develop as a result of the exposure.

3 (5) Diagnostic testing is reasonably necessary. Testing is reasonably
4 necessary if a physician would prescribe such testing for the purpose of
5 detecting or monitoring the disease.

6 (6) Medical tests or procedures exist to detect the latent disease.

7 (c) A court shall either place the award of medical monitoring damages
8 into a court-supervised program administered by medical professionals or
9 award lump sum damages.

10 (d) If a court places an award of medical monitoring damages into a court-
11 supervised program pursuant to subsection (c) of this section, the court shall
12 also award attorney's fees and costs to the plaintiff.

13 (e) Nothing in this chapter shall be deemed to preclude the pursuit of any
14 other civil or injunctive remedy available under statute or common law,
15 including the right of any person to recover for damages related to the
16 manifestation of a latent disease. The remedies in this chapter are in addition
17 to those provided by existing statutory or common law.

18 * * * Testing Groundwater * * *

19 Sec. 8. 10 V.S.A. § 1982 is added to read:

20 § 1982. TESTING OF GROUNDWATERSOURCES

21 ~~(a) Definitions. As used in this section, "groundwater source" means that~~

1 ~~portion of a potable water supply that draws water from the ground, including~~
2 ~~a drilled well, shallow well, driven well point, or spring.~~

3 ~~(b) Testing prior to new use. Prior to use of a new groundwater source as a~~
4 ~~potable water supply, where testing is not otherwise required, the person who~~
5 ~~owns or controls the groundwater source shall test the groundwater source for~~
6 ~~the parameters set forth in subsection (d) of this section.~~

7 ~~(c) Testing as condition of sale. In any transaction for the sale or exchange~~
8 ~~of real property for which the potable water supply for the property is a private~~
9 ~~well, the seller of the property, as a condition of a contract for sale, shall have~~
10 ~~the well tested for the parameters set forth in subsection (d) of this section.~~

11 ~~(d) Parameters of testing. A water sample collected under this section shall~~
12 ~~be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation,~~
13 ~~total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any~~
14 ~~other parameters required by the Agency by rule. The Agency by rule may~~
15 ~~require testing for a parameter by region or specific geographic area of~~
16 ~~concern.~~

17 ~~(e) Submission of test results. Within 10 days of receiving the results of a~~
18 ~~complete test required under this section, the seller shall submit the results, on~~
19 ~~a form provided by the Agency, to the Agency, the Department of Health, and~~
20 ~~the buyer.~~

21 ~~(f) Rulemaking. The Secretary, after consultation with the Department of~~

1 ~~Health, the Wastewater and Potable Water Supply Technical Advisory~~
2 ~~Committee, the Vermont Realtors, the Vermont Association of Professional~~
3 ~~Home Inspectors, private laboratories, and other interested parties, shall adopt~~
4 ~~by rule requirements regarding:~~

5 ~~(1) when prior to use of a new groundwater source, the test required~~
6 ~~under subsection (b) of this section shall be conducted;~~

7 ~~(2) who shall be authorized to sample the source for the test required~~
8 ~~under subsections (b) and (c) of this section, provided that the rule shall~~
9 ~~include the person who owns or controls the groundwater source and licensed~~
10 ~~well drillers among those authorized to conduct the test;~~

11 ~~(3) how a water sample shall be collected in order to comply with the~~
12 ~~requirements of the analyses to be performed; and~~

13 ~~(4) any other requirements necessary to implement this section.~~

14 Sec. 9. AGENCY OF NATURAL RESOURCES; GROUNDWATER

15 SOURCE TESTING

16 ~~The Secretary of Natural Resources shall commence rulemaking under~~
17 ~~10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules~~
18 ~~under 10 V.S.A. § 1982 on or before January 1, 2018.~~

19 Sec. 10. 18 V.S.A. § 501b is amended to read:

20 § 501b. CERTIFICATION OF LABORATORIES

21 ~~(a) The commissioner~~ Commissioner may certify a laboratory that meets

1 ~~the standards currently in effect of the National Environmental Laboratory~~

2 Accreditation Conference and is accredited by an approved National
3 Environmental Laboratory Accreditation Program accrediting authority or its
4 equivalent to perform the testing and monitoring:

5 (1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking
6 Water Act; and

7 (2) of water from a potable water supply, as that term is defined in
8 10 V.S.A. § 1972(6).

9 (b)(1) ~~the commissioner~~ Commissioner may by order suspend or revoke a
10 certificate granted under this section, after notice and opportunity to be heard,
11 if the ~~commissioner~~ Commissioner finds that the certificate holder has:

12 (A) submitted materially false or materially inaccurate
13 information; or

14 (B) violated any material requirement, restriction, or condition of the
15 certificate; or

16 (C) violated any statute, rule, or order relating to this title.

17 (2) The order shall set forth what steps, if any, may be taken by the
18 certificate holder to relieve the holder of the suspension or enable the
19 certificate holder to reapply for certification if a previous certificate has been
20 revoked.

21 ~~(c) A person may appeal the suspension or revocation of the certificate to~~

1 ~~the board Board under section 128 of this title~~

2 * * *

3 (f) ~~A~~ laboratory certified to conduct testing of groundwater sources or
4 water supplies from under 10 V.S.A. § 1982 or other statute for use by a
5 potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall
6 submit the results of groundwater analyses to the department of health
7 Department of Health and the agency of natural resources Agency of Natural
8 Resources in a format required by the department of health Department of
9 Health.

10 Sec. 11. 27 V.S.A. § 616 is amended to read:

11 § 616. GROUNDWATER SOURCE TESTING; DISCLOSURE OF
12 INFORMATIONAL MATERIAL

13 (a) ~~Disclosure of potable water supply informational material. For a~~
14 ~~contract for the conveyance of real property with a potable water supply, as~~
15 ~~that term is defined in 10 V.S.A. § 1972(6), that is not served by a public water~~
16 ~~system, as that term is defined in 10 V.S.A. § 1671(5), executed on or after~~
17 ~~January 1, 2013, the seller shall, within 72 hours of the execution, provide the~~
18 ~~buyer with informational materials developed by the department of health~~
19 ~~regarding:~~

20 (1) ~~the potential health effects of the consumption of contaminated~~
21 ~~groundwater; and~~

22 ~~(2) the availability of test kits provided by the department of health.~~

1 ~~Definition. As used in this section, potable water supply shall have the same~~
2 ~~meaning as set forth in 10 V.S.A. § 1972.~~

3 (b) ~~Disclosure of well testing. Upon conveyance of land on which is~~
4 ~~located a potable water supply, as that term is defined in 10 V.S.A. § 1972(6),~~
5 ~~the source of which is a private well, the seller shall provide the buyer with a~~
6 ~~disclosure form that includes the results of the well testing required under~~
7 ~~10 V.S.A. § 1982.~~

8 (c) ~~Marketability of title. Noncompliance with the requirements of this~~
9 ~~section shall not affect the marketability of title of a property.~~

10 (e)(d) ~~Penalty; liability. Liability for failure to provide the informational~~
11 ~~materials required by this section shall be limited to a civil penalty, imposed~~
12 ~~by the department of health Department of Health under 18 V.S.A. chapter 3,~~
13 ~~of not less than \$25.00 and not more than \$250.00 for each violation.~~

14 * * * Chemicals of High Concern * * *

15 Sec. 12. 18 V.S.A. chapter 38A is amended to read:

16 CHAPTER 38A. CHEMICALS OF HIGH CONCERN ~~TO CHILDREN~~

17 * * *

18 § 1772. DEFINITIONS

19 As used in this chapter:

20 (1) "Aircraft" shall have the same meaning as in 5 V.S.A. § 202.

21 ~~(2) "Chemical" means a substance with a distinct molecular~~

1 ~~composition or a group of structurally related substances and includes the~~
2 breakdown products of the substance or substances that form through
3 decomposition, degradation, or metabolism. “Chemical” shall not mean
4 crystalline silica in any form, as derived from ordinary sand or as present as a
5 naturally occurring component of any other mineral raw material, including
6 granite, gravel, limestone, marble, slate, soapstone, and talc.

7 (3) “Chemical of high concern to children” means a chemical listed
8 under section 1773 or designated by the Department as a chemical of high
9 concern by rule under section 1776 of this title.

10 (4) “Child” or “children” means an individual or individuals under
11 12 years of age, or under an age specified by statute.

12 (5) “Children’s cosmetics” means cosmetics that are made for, marketed
13 for use by, or marketed to children. “Children’s cosmetics” includes cosmetics
14 that meet any of the following conditions:

15 (A) are represented in its packaging, display, or advertising as
16 appropriate for use by children;

17 (B) are sold in conjunction with, attached to, or packaged together
18 with other products that are packaged, displayed, or advertised as appropriate
19 for use by children; or

20 (C) are sold in any of the following:

21 ~~(i) a retail store, catalogue, or online website, in which a person~~

1 ~~exclusively offers for sale consumer products that are packaged, displayed, or~~

2 advertised as appropriate for use by children; or

3 (ii) a discrete portion of a retail store, catalogue, or online
4 website, in which a person offers for sale products that are packaged,
5 displayed, or advertised as appropriate for use by children.

6 (6) "Children's jewelry" means jewelry that is made for, marketed for
7 use by, or marketed to children and shall include jewelry that meets any of the
8 following conditions:

9 (A) is represented in its packaging, display, or advertising as
10 appropriate for use by children;

11 (B) is sold in conjunction with, attached to, or packaged together
12 with other products that are packaged, displayed, or advertised as appropriate
13 for use by children;

14 (C) is sized for children and not intended for use by adults; or

15 (D) is sold in any of the following:

16 (i) a vending machine;

17 (ii) a retail store, catalogue, or online website, in which a person
18 exclusively offers for sale products that are packaged, displayed, or advertised
19 as appropriate for use by children; or

20 (iii) a discrete portion of a retail store, catalogue, or online

21 ~~website, in which a person offers for sale products that are packaged,~~

1 ~~displayed, or advertised as appropriate for use by children.~~

2 (7)(A) "Children's product" means any consumer product, marketed for
3 use by, marketed to, sold, offered for sale, or distributed to children in the
4 State of Vermont, including:

5 (i)(A) toys;

6 (ii)(B) children's cosmetics;

7 (iii)(C) children's jewelry;

8 (iv)(D) a product designed or intended by the manufacturer to
9 help a child with sucking or teething, to facilitate sleep, relaxation, or the
10 feeding of a child, or to be worn as clothing by children; or

11 (v)(E) child car seats.

12 (B) "Children's product" shall not mean or include the following:

13 (i) batteries;

14 (ii) snow sporting equipment, including skis, poles, boots, snow
15 boards, sleds, and bindings;

16 (iii) inaccessible components of a consumer product that during
17 reasonably foreseeable use and abuse of the consumer product would not come
18 into direct contact with a child's skin or mouth; and

19 (iv) used consumer products that are sold in second-hand product
20 markets.

21 ~~(8) "Consumer product" means any product that is regularly used or~~

1 ~~purchased to be used for personal, family, or household purposes. “Consumer~~

2 product” shall not mean:

3 (A) a product primarily used or purchased for industrial or business
4 use that does not enter the consumer product market or is not otherwise sold at
5 retail;

6 (B) a food or beverage or an additive to a food or beverage;

7 (C) a tobacco product;

8 (D) a pesticide regulated by the U.S. Environmental Protection
9 Agency;

10 (E) a drug, or biologic regulated by the U.S. Food and Drug
11 Administration (FDA), or the packaging of a drug, or biologic that is regulated
12 by the FDA, including over the counter drugs, prescription drugs, dietary
13 supplements, medical devices, or products that are both a cosmetic and a drug
14 regulated by the FDA;

15 (F) ammunition or components thereof, firearms, air rifles, or
16 hunting or fishing equipment or components thereof;

17 (G) an aircraft, motor vehicle, wheelchair, or vessel;

18 (H) consumer electronic products, including personal computers,
19 audio and video equipment, calculators, wireless telephones, game consoles,
20 and hand-held devices incorporating a video screen used to access interactive

21 ~~software intended for leisure and entertainment and their associated~~

1 peripherals;

2 (I) interactive software, intended for leisure and entertainment, such
3 as computer games, and their storage media, such as compact discs; or

4 (J) the packaging in which a product is sold, offered for sale, or
5 distributed;

6 (K) inaccessible components of a consumer product that during
7 reasonably foreseeable use and abuse of the consumer product would not come
8 into direct contact with a person's skin or mouth;

9 (L) batteries;

10 (M) snow sporting equipment, including skis, poles, boots, snow
11 boards, sleds, and bindings; and

12 (N) used consumer products that are sold in second-hand product
13 markets.

14 (9) "Contaminant" means a trace amount of a chemical or chemicals
15 that is incidental to manufacturing and serves no intended function in the
16 children's consumer product or component of the children's consumer product,
17 including an unintended by-product of chemical reactions during the
18 manufacture of the children's consumer product, a trace impurity in feed-
19 stock, an incompletely reacted chemical mixture, and a degradation product.

20 (10) "Cosmetics" means articles intended to be rubbed, poured,
21 sprinkled, or sprayed on, introduced into, or otherwise applied to the human

1 ~~body or any part thereof for cleansing, beautifying, promoting attractiveness,~~
2 or altering appearance, and articles intended for use as a component of such an
3 article. “Cosmetics” shall not mean soap, dietary supplements, or food and
4 drugs approved by the U.S. Food and Drug Administration.

5 (11) “Intentionally added” means the addition of a chemical in a product
6 that serves an intended function in the product component.

7 (12) “Manufacturer” means:

8 (A) any person who manufactures a ~~children’s~~ consumer product or
9 whose name is affixed to a children’s product or its packaging or advertising,
10 and the ~~children’s~~ consumer product is sold or offered for sale in Vermont; or

11 (B) any person who sells a ~~children’s~~ consumer product to a retailer
12 in Vermont when the person who manufactures the ~~children’s~~ consumer
13 product or whose name is affixed to the ~~children’s~~ consumer product or its
14 packaging or advertising does not have a presence in the United States other
15 than the sale or offer for sale of the manufacturer’s products.

16 (13) “Motor vehicle” means all vehicles propelled or drawn by power
17 other than muscular power, including snowmobiles, motorcycles, all-terrain
18 vehicles, farm tractors, vehicles running only upon stationary rails or tracks,
19 motorized highway building equipment, road-making appliances, or tracked
20 vehicles, or electric personal assistive mobility devices.

21 ~~(14) “Persistent bioaccumulative toxic” means a chemical or chemical~~

1 ~~group that, based on credible scientific information, meets each of the~~

2 following criteria:

3 (A) the chemical can persist in the environment as demonstrated by
4 the fact that:

5 (i) the half-life of the chemical in water is greater than or equal to
6 60 days;

7 (ii) the half-life of the chemical in soil is greater than or equal to
8 60 days; or

9 (iii) the half-life of the chemical in sediments is greater than or
10 equal to 60 days; and

11 (B) the chemical has a high potential to bioaccumulate based on
12 credible scientific information that the bioconcentration factor or
13 bioaccumulation factor in aquatic species for the chemical is greater than 1,000
14 or, in the absence of such data, that the log-octanol/water partition coefficient
15 (log Kow) is greater than five; and

16 (C) the chemical has the potential to be toxic to ~~children~~ a person as
17 demonstrated by the fact that:

18 (i) the chemical or chemical group is a carcinogen, a
19 developmental or reproductive toxicant, or a neurotoxicant;

20 (ii) the chemical or chemical group has a reference dose or
21 ~~equivalent toxicity measure that is less than 0.005 mg/kg/day, or~~

1 ~~(iii) the chemical or chemical group has a chronic no observed~~
2 effect concentration (NOEC) or equivalent toxicity measure that is less than
3 0.1 mg/L or an acute NOEC or equivalent toxicity measure that is less than
4 1.0 mg/L.

5 (15) "Practical quantification limit (PQL)" means the lowest
6 concentration that can be reliably measured within specified limits of
7 precision, accuracy, representativeness, completeness, and comparability
8 during routine laboratory operating conditions.

9 (16) "Toy" means a consumer product designed or intended by the
10 manufacturer to be used by a child at play.

11 (17) "Vessel" means every description of watercraft used or capable of
12 being used as a means of transportation on water.

13 § 1773. CHEMICALS OF HIGH CONCERN ~~TO CHILDREN~~

14 (a) List of chemicals of high concern ~~to children~~. The following chemicals
15 are designated as chemicals of high concern ~~to children~~ for the purposes of the
16 requirements of this chapter:

- 17 (1) Formaldehyde.
18 (2) Aniline.
19 (3) N-Nitrosodimethylamine.
20 (4) Benzene.
21 ~~(5) Vinyl chloride.~~

- 1 ~~(6) Acetaldehyde.~~
- 2 (7) Methylene chloride.
- 3 (8) Carbon disulfide.
- 4 (9) Methyl ethyl ketone.
- 5 (10) 1,1,2,2-Tetrachloroethane.
- 6 (11) Tetrabromobisphenol A.
- 7 (12) Bisphenol A.
- 8 (13) Diethyl phthalate.
- 9 (14) Dibutyl phthalate.
- 10 (15) Di-n-hexyl phthalate.
- 11 (16) Phthalic anhydride.
- 12 (17) Butyl benzyl phthalate (BBP).
- 13 (18) N-Nitrosodiphenylamine.
- 14 (19) Hexachlorobutadiene.
- 15 (20) Propyl paraben.
- 16 (21) Butyl paraben.
- 17 (22) 2-Aminotoluene.
- 18 (23) 2,4-Diaminotoluene.
- 19 (24) Methyl paraben.
- 20 (25) p-Hydroxybenzoic acid.
- 21 ~~(26) Ethylbenzene.~~

- 1 (27) Styrene.
- 2 (28) 4-Nonylphenol; 4-NP and its isomer mixtures, including CAS
- 3 84852-15-3 and CAS 25154-52-3.
- 4 (29) para-Chloroaniline.
- 5 (30) Acrylonitrile.
- 6 (31) Ethylene glycol.
- 7 (32) Toluene.
- 8 (33) Phenol.
- 9 (34) 2-Methoxyethanol.
- 10 (35) Ethylene glycol monoethyl ester.
- 11 (36) Tris(2-chloroethyl) phosphate.
- 12 (37) Di-2-ethylhexyl phthalate.
- 13 (38) Di-n-octyl phthalate (DnOP).
- 14 (39) Hexachlorobenzene.
- 15 (40) 3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-
- 16 Dimethylbenzidine.
- 17 (41) Ethyl paraben.
- 18 (42) 1,4-Dioxane.
- 19 (43) Perchloroethylene.
- 20 (44) Benzophenone-2 (Bp-2); 2,2',4,4'-Tetrahydroxybenzophenone.
- 21 (45) 4-tert-Octylphenol, 4-(1,1,3,3-Tetramethylbutyl) phenol.

- 1 ~~(46) Estragole.~~
- 2 (47) 2-Ethylhexanoic acid.
- 3 (48) Octamethylcyclotetrasiloxane.
- 4 (49) Benzene, Pentachloro.
- 5 (50) C.I. Solvent yellow 14.
- 6 (51) N-Methylpyrrolidone.
- 7 (52) 2,2',3,3',4,4',5,5',6,6' ~~-Decabromodiph-enyl~~ Decabromodiphenyl
- 8 ether; BDE-209.
- 9 (53) Perfluorooctanyl sulphonic acid and its salts; PFOS.
- 10 (54) Phenol, 4-octyl.
- 11 (55) 2-Ethyl-hexyl-4-methoxycinnamate.
- 12 (56) Mercury and mercury compounds, including methyl mercury
- 13 (22967-92-6).
- 14 (57) Molybdenum and molybdenum compounds.
- 15 (58) Antimony and Antimony compounds.
- 16 (59) Arsenic and Arsenic compounds, including arsenic trioxide (1327-
- 17 53-3) and dimethyl arsenic (75-60-5).
- 18 (60) Cadmium and cadmium compounds.
- 19 (61) Cobalt and cobalt compounds.
- 20 (62) Tris(1,3-dichloro-2-propyl)phosphate.
- 21 ~~(63) Butylated hydroxyanisole, BHA.~~

1 ~~(64) Hexabromocyclododecane.~~

2 (65) Diisodecyl phthalate (DIDP).

3 ~~(66) Diisononyl phthalate (DINP).~~

4 (67) Any other chemical designated by the Commissioner as a chemical
5 of high concern to children by rule under section 1776 of this title.

6 (b) Commissioner's review of list of chemicals. Beginning on July 1,
7 2017, and biennially thereafter, the Commissioner of Health shall review the
8 list of chemicals of high concern to children to determine if additional
9 chemicals should be added to the list under subsection 1776(b) of this title. In
10 reviewing the list of chemicals of high concern to children, the Commissioner
11 of Health may consider designations made by other states, the federal
12 government, other countries, or other governmental agencies.

13 (c) Publication of list. The Commissioner shall post the list of chemicals
14 of high concern to children on the Department of Health website by chemical
15 name and Chemical Abstracts Service number.

16 (d) Addition or removal from list. Under 3 V.S.A. § 806, any person may
17 request that the Commissioner add or remove a chemical from the list of
18 chemicals of high concern to children.

19 (e) PQL value. A PQL value established under this chapter for individual
20 chemicals shall depend on the analytical method used for each chemical. The
21 PQL value shall be based on scientifically defensible, standard analytical

1 ~~methods as advised by guidance published by the Department.~~

2 § 1774. CHEMICALS OF HIGH CONCERN TO CHILDREN WORKING
3 GROUP

4 (a) Creation. A The Chemicals of High Concern to ~~Children~~ Working
5 Group (Working Group) is created within the Department of Health for the
6 purpose of providing the Commissioner of Health advice and
7 recommendations regarding implementation of the requirements of this
8 chapter.

9 (b) Membership.

10 (1) The Working Group shall be composed of the following members
11 who, except for ex officio members, shall be appointed by the Governor after
12 consultation with the Commissioner of Health:

13 (A) the Commissioner of Health or designee, who shall be the Chair
14 of the Working Group;

15 (B) the Commissioner of Environmental Conservation or designee;

16 (C) the State toxicologist or designee;

17 (D) a representative of a public interest group in the State with
18 experience in advocating for the regulation of toxic substances;

19 (E) a representative of an organization within the State with expertise
20 in issues related to the public health of, including sensitive populations such as
21 children or pregnant women,

1 ~~(F) one representative of businesses in the State that use chemicals in~~
2 a manufacturing or production process or use chemicals that are used in a
3 children's consumer product manufactured in the State;

4 (G) a scientist with expertise regarding the toxicity of chemicals; and

5 (H) a representative of the children's consumer products industry
6 with expertise in existing state and national policies impacting children's
7 consumer products.

8 (2)(A) In addition to the members of the Working Group appointed
9 under subdivision (1) of this subsection (b), the Governor may appoint up to
10 three additional adjunct members.

11 (B) An adjunct member appointed under this subdivision (2) shall
12 have expertise or knowledge of the chemical or children's consumer product
13 under review or shall have expertise or knowledge in the potential health
14 effects of the chemical at issue.

15 (C) Adjunct members appointed under this subdivision (2) shall have
16 the same authority and powers as a member of the Working Group appointed
17 under subdivision (1) of this subsection (b).

18 (3) The members of the Working Group appointed under subdivision (1)
19 of this subsection (b) shall serve staggered three-year terms. The Governor
20 may remove members of the Working Group who fail to attend three
21 ~~consecutive meetings and may appoint replacements. The Governor may~~

1 ~~reappoint members to serve more than one term.~~

2 (c) Powers and duties. The Working Group shall:

3 (1) upon the request of the Chair of the Working Group, review
4 proposed chemicals for listing as a chemical of high concern to children under
5 section 1773 of this title; and

6 (2) recommend to the Commissioner of Health whether rules should be
7 adopted under section 1776 of this title to regulate the sale or distribution of a
8 children's consumer product containing a chemical of high concern to
9 children.

10 (d) Commissioner of Health recommendation; assistance.

11 (1) Beginning on July 1, 2017, and biennially thereafter, the
12 Commissioner of Health shall recommend at least two chemicals of high
13 concern to children in children's consumer products for review by the Working
14 Group. The Commissioner's recommendations shall be based on the degree of
15 human health risks, exposure pathways, and impact on sensitive populations
16 presented by a chemical of high concern to children.

17 (2) The Working Group shall have the administrative, technical, and
18 legal assistance of the Department of Health and the Agency of Natural
19 Resources.

20 (e) Meetings.

21 ~~(1) The Chair of the Working Group may convene the Working Group~~

1 ~~at any time, but no less frequently than at least once every other year.~~

2 (2) A majority of the members of the Working Group, including adjunct
3 members when appointed, shall constitute a quorum, and all action shall be
4 taken upon a majority vote of the members present and voting.

5 (f) Reimbursement. Members of the Working Group, including adjunct
6 members, whose participation is not supported through their employment or
7 association shall receive per diem compensation pursuant to 32 V.S.A. § 1010
8 and reimbursement of travel expenses. A per diem authorized by this section
9 shall be paid from the budget of the Department of Health.

10 § 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH
11 CONCERN

12 (a) Notice of chemical of high concern ~~to children~~. A manufacturer of a
13 ~~children's~~ consumer product or a trade association representing a manufacturer
14 of ~~children's~~ consumer products shall submit to the Department the notice
15 described in subsection (b) of this section for each chemical of high concern ~~to~~
16 ~~children~~ in a ~~children's~~ consumer product if a chemical of high concern ~~to~~
17 ~~children~~ is:

18 (1) intentionally added to a ~~children's~~ consumer product at a level above
19 the PQL produced by the manufacturer; or

20 (2) present in a ~~children's~~ consumer product produced by the

21 ~~manufacturer as a contaminant at a concentration of 100 parts per million or~~

1 ~~greater~~

2 (b) Format for notice. The Commissioner shall specify the format for
3 submission of the notice required by subsection (a) of this section, provided
4 that the required format shall be generally consistent with the format for
5 submission of notice in other states with requirements substantially similar to
6 the requirements of this section. Any notice submitted under subsection (a)
7 shall contain the following information:

8 (1) the name of the chemical used or produced and its chemical
9 abstracts service registry number;

10 (2) the name of the product containing the chemical, a description of the
11 product or product component containing the chemical, and whether the
12 product is a children's product;

13 (3) the universal product code for the product containing the chemical;

14 (4) the amount of the chemical contained in each unit of the product or
15 product component, reported by weight or parts per million as authorized by
16 the Commissioner;

17 (4)(5) the name and address of the manufacturer of the children's
18 consumer product and the name, address, and telephone number of a contact
19 person for the manufacturer;

20 (5)(6) any other information the manufacturer deems relevant to the
21 appropriate use of the product, and

1 ~~(6)(7) any other information required by the Commissioner under rules~~
2 adopted pursuant to 3 V.S.A. chapter 25.

3 (c) Reciprocal data-sharing. In order for the Department to obtain the
4 information required in the notice described in subsection (b) of this section,
5 the Department may enter into reciprocal data-sharing agreements with other
6 states in which a manufacturer of ~~children's~~ consumer products is also required
7 to disclose information related to chemicals of high concern to ~~children~~ in
8 ~~children's~~ consumer products. The Department shall not disclose trade secret
9 information, confidential business information, or other information
10 designated as confidential by law under a reciprocal data-sharing agreement.

11 (d) Waiver of format. Upon application of a manufacturer on a form
12 provided by the Department, the Commissioner may waive the requirement
13 under subsection (b) of this section that a manufacturer provide notice in a
14 format specified by the Commissioner. The waiver may be granted,
15 provided that:

16 (1) the manufacturer submitted the information required in a notice
17 under this section to:

18 (A) a state with which the Department has entered a reciprocal data-
19 sharing agreement; or

20 (B) a trade association, the Interstate Chemicals Clearinghouse, a
21 federal governmental agency, or other independent third party,

1 ~~(2) the information required to be reported in a notice under this section~~
2 is provided to the Department in an alternate format, including reference to
3 information publicly available in other states or by independent third
4 parties; and

5 ~~(3) the information required to be reported in a notice under this section~~
6 is available on or accessible from the Department of Health website.

7 ~~(e) Chemical control program. A manufacturer shall be exempt from the~~
8 ~~requirements of notice under this section for any chemical of high concern to~~
9 ~~children that is present in a children's consumer product or component of a~~
10 ~~children's consumer product only as a contaminant if, during manufacture of~~
11 ~~the children's consumer product, the manufacturer was implementing a~~
12 ~~manufacturing control program and exercised due diligence to minimize the~~
13 ~~presence of the contaminant in the children's consumer product.~~

14 ~~(f) Notice of removal of chemical. A manufacturer who submitted the~~
15 ~~notice required by subsection (a) of this section may at any time submit to the~~
16 ~~Department notice that a chemical of high concern to children has been~~
17 ~~removed from the manufacturer's children's consumer product or that the~~
18 ~~manufacturer no longer sells, offers for sale, or distributes in the State the~~
19 ~~children's consumer product containing the chemical of high concern to~~
20 ~~children. Upon verification of a manufacturer's notice under this subsection,~~
21 ~~the Commissioner shall promptly remove from the Department website any~~

1 ~~reference to the relevant children's consumer product of the manufacturer~~

2 (g) Certificate of compliance. A manufacturer required to submit notice
3 under this section to the Commissioner may rely on a certificate of compliance
4 from suppliers for determining reporting obligations. A certificate of
5 compliance provided by a supplier under this subsection shall be solely for the
6 purpose of compliance with the requirements of this chapter.

7 (h) Products for sale ~~out of state~~ outside the State. A manufacturer shall
8 not be required to submit notice under this section for a ~~children's~~ children's consumer
9 product manufactured, stored in, or transported through Vermont solely for use
10 or sale outside the State of Vermont.

11 (i) Publication of information; disclaimer. The Commissioner shall post on
12 the Department of Health website information submitted under this section by
13 a manufacturer. When the Commissioner posts on the Department of Health
14 website information submitted under this section by a manufacturer, the
15 Commissioner shall provide the following notice:

16 "The reports on this website are based on data provided to the Department.
17 The presence of a chemical in a ~~children's~~ children's consumer product does not
18 necessarily mean that the product is harmful to human health or that there is
19 any violation of existing safety standards or laws. The reporting triggers are
20 not health-based values."

21 ~~(j) Fee. A manufacturer shall pay a fee of \$200.00 for each notice required~~

1 ~~under subsection (e) of this section. If, under subsection (d) of this section, the~~
2 Commissioner waives the required format for reporting, the fee shall not be
3 waived. Fees collected under this subsection shall be deposited in the
4 Chemicals of High Concern Fund for the purposes of that Fund.

5 (k) Application of section. The requirements of this section shall apply
6 unless a manufacturer is exempt or unless notice according to the requirements
7 of this section is specifically preempted by federal law. In the event of conflict
8 between the requirements of this section and federal law, federal law shall
9 control.

10 (l) Submission of notice; dates. Unless the Commissioner adopts by rule a
11 phased-in reporting requirement under section 1776 of this title, a
12 manufacturer shall submit the notice required under subsection (a) of this
13 section by:

14 (1) January 1, 2017; and

15 (2) August 31, 2018, and biennially thereafter.

16 § 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO
17 CHILDREN; PROHIBITION OF SALE

18 (a) Rulemaking authority. The Commissioner shall, after consultation with
19 the Secretary of Natural Resources, adopt rules as necessary for the purposes
20 of implementing, administering, or enforcing the requirements of this chapter.

21 ~~(b) Additional chemicals of concern to children. The Commissioner may~~

1 ~~by rule add additional chemicals to the list of chemicals of high concern to~~
2 ~~children, provided that the Commissioner of Health, on the basis of the weight~~
3 ~~of credible, scientific evidence, has determined that a chemical proposed for~~
4 ~~addition to the list meets both all of the following criteria in subdivisions (1)~~
5 ~~and (2) of this subsection:~~

6 (1) The Commissioner of Health has determined that an authoritative
7 governmental entity or accredited research university has demonstrated that the
8 chemical:

9 (A) harms the normal development of a fetus or child or causes other
10 developmental toxicity;

11 (B) causes cancer, genetic damage, or reproductive harm;

12 (C) disrupts the endocrine system;

13 (D) damages the nervous system, immune system, or organs or
14 causes other systemic toxicity; or

15 (E) is a persistent bioaccumulative toxic.

16 (2) The chemical has been found through:

17 (A) biomonitoring to be present in human blood, umbilical cord
18 blood, breast milk, urine, or other bodily tissues or fluids;

19 (B) sampling and analysis to be present in household dust, indoor air,
20 drinking water, or elsewhere in the home environment; or

21 ~~(C) monitoring to be present in fish, wildlife, or the natural~~

1 ~~environment~~

2 (c) Removal of chemical from list. The Commissioner may by rule
3 remove a chemical from the list of chemicals of high concern to children
4 established under section 1773 of this title or rules adopted under this section
5 if the Commissioner determines that the chemical no longer meets ~~both~~ all of
6 the criteria of subdivisions (b)(1) and (2) of this section.

7 (d) Rule to regulate sale or distribution.

8 (1) The Commissioner, ~~upon the recommendation of~~ after consultation
9 with the Chemicals of High Concern to Children Working Group, may adopt a
10 rule to regulate the sale or distribution of a children's consumer product
11 containing a chemical of high concern to children upon a determination that:

12 (A) ~~children will be exposed~~ there is a potential exposure to humans
13 to a chemical of high concern to children in the children's consumer
14 product; and

15 (B) ~~there is a probability that, due to the degree of exposure or~~
16 ~~frequency of exposure of a child to a chemical of high concern to children in a~~
17 ~~children's product, exposure could cause or contribute to one or more of the~~
18 ~~adverse health impacts listed under subdivision (b)(1) of this section.~~ at least
19 one available safer alternative chemical to the chemical of high concern.

20 (2) In determining whether ~~children~~ a person will be exposed to a
21 ~~chemical of high concern in a children's consumer product, the Commissioner~~

1 shall review available, credible information regarding:

2 (A) the market presence of the ~~children's~~ consumer product in the
3 State;

4 (B) the type or occurrence of exposures to the relevant chemical of
5 high concern to ~~children~~ in the ~~children's~~ consumer product;

6 (C) the household and workplace presence of the ~~children's~~
7 consumer product; or

8 (D) the potential and frequency of exposure of ~~children~~ persons to
9 the chemical of high concern to ~~children~~ in the ~~children's~~ consumer product.

10 (3) A rule adopted under this section may:

11 (A) prohibit the ~~children's~~ consumer product containing the
12 chemical of high concern to ~~children~~ from sale, offer for sale, or distribution in
13 the State; or

14 (B) require that the ~~children's~~ consumer product containing the
15 chemical of high concern to ~~children~~ be labeled prior to sale, offer for sale, or
16 distribution in the State.

17 (4) In any rule adopted under this subsection, the Commissioner shall
18 adopt reasonable time frames for manufacturers, distributors, and retailers to
19 comply with the requirements of the rules. No prohibition on sale or
20 manufacture of a ~~children's~~ consumer product in the State shall take effect

21 sooner than two years after the adoption of a rule adopted under this section

1 ~~unless the Commissioner determines that an earlier effective date is required to~~
2 protect human health and the new effective date is established by rule.

3 (e) Exemption for chemical management strategy. In adopting a rule under
4 this section, the Commissioner may exempt from regulation a ~~children's~~
5 consumer product containing a chemical of high concern ~~to children~~ if the
6 manufacturer of the ~~children's~~ consumer product is implementing a
7 comprehensive chemical management strategy designed to eliminate harmful
8 substances or chemicals from the manufacturing process.

9 (f) Additional rules.

10 (1) On or before July 1, 2017, the Commissioner of Health shall adopt
11 by rule the process and procedure to be required when the Commissioner of
12 Health adopts a rule under subsection (b), (c), or (d) of this section. The rule
13 shall provide:

14 (A) all relevant criteria for evaluation of the chemical;

15 (B) criteria by which a chemical, due to its presence in the
16 environment or risk of harm, shall be prioritized for addition or removal from
17 the list of chemicals of high concern ~~to children~~ or for regulation under
18 subsection (d) of this section;

19 (C) time frames for labeling or phasing out sale or distribution; and

20 (D) other information or process determined as necessary by the

21 ~~Commissioner for implementation of this chapter.~~

1 ~~(2) The Commissioner may, by rule, authorize a manufacturer to report~~
2 ranges of the amount of a chemical in a ~~children's~~ consumer product, rather
3 than the exact amount, provided that if there are multiple chemical values for a
4 given component in a particular product category, the manufacturer shall use
5 the largest value for reporting.

6 (3) Notwithstanding the required reporting dates under section 1774 of
7 this title, the Commissioner may adopt by rule phased-in reporting
8 requirements for chemicals of high concern to ~~children~~ in ~~children's~~ consumer
9 products based on the size of the manufacturer, aggregate sales of ~~children's~~
10 consumer products, or the exposure profile of the chemical of high concern to
11 ~~children~~ in the ~~children's~~ consumer product.

12 (g) Additional public participation. In addition to the public participation
13 requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized
14 under this section to the Secretary of State under 3 V.S.A. § 838, the
15 Commissioner shall make reasonable efforts to consult with interested parties
16 within the State regarding any proposed prohibition of a chemical of high
17 concern to ~~children~~. The Commissioner may satisfy the consultation
18 requirement of this section through the use of one or more workshops, focused
19 work groups, dockets, meetings, or other forms of communication.

20 § 1776a. PHASE-OUT OF CHILDREN'S PRODUCTS CONTAINING A

21 CHEMICAL OF HIGH CONCERN

1 ~~(a) Removal or substitution. On or before the date on which a~~
2 ~~manufacturer of a children's product submits the third biennial notice required~~
3 ~~under section 1775 of this title for a chemical that is present in a children's~~
4 ~~product, the manufacturer shall remove or make a substitution for the chemical~~
5 ~~or seek a waiver from the Commissioner if the chemical is present in a~~
6 ~~children's product that is marketed for use by, marketed to, sold, offered for~~
7 ~~sale, distributed for use by an individual under three years of age and the~~
8 ~~children's product is:~~

9 ~~(1) mouthable;~~

10 ~~(2) a children's cosmetic; or~~

11 ~~(3) made for, marketed for use by, or marketed to children under three~~
12 ~~years of age.~~

13 ~~(b) Extension; small manufacturer. A manufacturer with 25 or fewer~~
14 ~~employees may apply for a two-year extension of the date specified in~~
15 ~~subsection (a) of this section to meet the requirements of this section.~~

16 ~~(c) Exemption. A manufacturer is exempt from meeting the requirements~~
17 ~~of this section for children's products described in subsection (a) of this section~~
18 ~~that contain a high-priority chemical of concern for children's health used in~~
19 ~~children's products at levels that are at or below allowable levels for children's~~
20 ~~products as established by the Consumer Product Safety Improvement Act of~~
21 ~~2008, P.L. 110-314, 122 Stat. 3016, and in effect on July 1, 2017.~~

1 ~~(d) Rulemaking. The Commissioner may adopt rules providing for~~
2 ~~additional exemptions from the requirements of this section.~~

3 ~~(e) Presumption of compliance. For purposes of this subsection, any~~
4 ~~consumer product safety standard adopted under federal law that establishes~~
5 ~~allowable levels for a chemical of high concern in a children's product is~~
6 ~~presumed to establish the maximum allowable level of the chemical that may~~
7 ~~be used in a children's product that is sold or offered for sale in this State. The~~
8 ~~Commissioner shall not require a manufacturer in compliance with the federal~~
9 ~~standard also to comply with the requirements of this section unless the~~
10 ~~Commissioner establishes in the rulemaking process that a lower maximum~~
11 ~~allowable level for children's products of a chemical of high concern than the~~
12 ~~allowable level set by the federal standard is necessary to protect human health~~
13 ~~and welfare.~~

14 § 1777. CHEMICALS OF HIGH CONCERN TO CHILDREN FUND

15 (a) The Chemicals of High Concern to Children Fund is established in the
16 State Treasury, separate and distinct from the General Fund, to be administered
17 by the Commissioner of Health. Interest earned by the Fund shall be credited
18 to the Fund. Monies in the Fund shall be made available to the Department of
19 Health and the Agency of Natural Resources to pay costs incurred in
20 administration of the requirements of this chapter.

21 ~~(b) The Chemicals of High Concern to Children Fund shall consist of.~~

1 ~~(1) fees and charges collected under section 1775 of this chapter;~~

2 (2) private gifts, bequests, grants, or donations made to the State from
3 any public or private source for the purposes for which the Fund was
4 established, and

5 (3) such sums as may be appropriated by the General Assembly.

6 § 1778. CONFIDENTIALITY

7 Information submitted to or acquired by the Department or the Chemicals
8 of High Concern to Children Working Group under this chapter may be subject
9 to public inspection or copying or may be published on the Department
10 website, provided that trade secret information and confidential business
11 information shall be exempt from public inspection and copying under 1
12 V.S.A. § 317(c)(9) and information otherwise designated confidential by law
13 shall be exempt from public inspection and copying under 1 V.S.A. §
14 317(c)(1). It shall be the burden of the manufacturer to assert that information
15 submitted under this chapter is a trade secret, is confidential business
16 information, or is otherwise designated confidential by law. When a
17 manufacturer asserts under this section that the specific identity of a chemical
18 of high concern to children in a children's consumer product is a trade secret,
19 the Commissioner shall, in place of the specific chemical identity, post on the
20 Department's website the generic class or category of the chemical in the
21 ~~children's consumer product and the potential health effect of the specific~~

1 ~~chemical of high concern to children~~

2 § 1779. VIOLATIONS; ENFORCEMENT

3 A violation of this chapter shall be considered a violation of the Consumer
4 Protection Act in 9 V.S.A. chapter 63. The Attorney General has the same
5 authority to make rules, conduct civil investigations, enter into assurances of
6 discontinuance, and bring civil actions under 9 V.S.A. chapter 63,
7 subchapter 1. Private parties shall not have a private right of action under this
8 chapter.

9 * * * Dental Floss and Food Contact Substances * * *

10 Sec. 13. 18 V.S.A. § 1514 is added to read:

11 § 1514. PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS;

12 DENTAL; FLOSS; FOOD CONTACT SUBSTANCES; FOOD

13 PACKAGING

14 (a) As used in this section:

15 (1) “Dental floss” or “dental tape” means a string-like device made of
16 cotton or other fibers intended to remove plaque and food particles from
17 between the teeth to reduce tooth decay. The fibers of the device may be
18 coated with wax.

19 (2) “Food contact substance” means any substance intended for use as a
20 component of materials used in manufacturing, packing, packaging,
21 transporting, or holding food if such use is not intended to have any technical

1 effect in the food.

2 (3) "Food package" means a package or packaging component that is
3 intended for the marketing, protection, or handling of a product intended for
4 food contact or used to store food and foodstuffs for sale.

5 (4) "Package" means a container providing a means of marketing,
6 protecting, or handling a product and shall include a unit package, an
7 intermediate package, and a shipping container. "Package" also means and
8 includes unsealed receptacles such as carrying cases, crates, cups, pails, rigid
9 foil and other trays, wrappers and wrapping films, bags, and tubs.

10 (5) "Packaging component" means an individual assembled part of a
11 package including any interior or exterior blocking, bracing, cushioning,
12 weatherproofing, exterior strapping, coatings, closures, inks, and labels.

13 (6) "Perfluoroalkyl and polyfluoroalkyl chemicals" or "PFAS
14 chemicals" means substances that contain multiple carbon-fluorine bonds, but
15 are not exclusively composed of carbon and fluorine including poly- or
16 perfluorinated compounds.

17 (b) Beginning on July 1, 2018, no person or entity shall manufacture, sell,
18 or distribute in commerce in this State:

19 (1) any dental floss or dental tape containing PFAS chemicals; or

20 (2) any packaging contained or manufactured from a food contact
21 substance containing PFAS chemicals.

1 ~~(c) Manufacturers shall use the least toxic alternative when replacing PFAS~~
2 ~~chemicals in accordance with this section.~~

3 ~~(d) Manufacturers shall not replace PFAS chemicals, pursuant to this~~
4 ~~section, with reproductive toxicants that the U.S. Environmental Protection~~
5 ~~Agency has identified as causing birth defects, reproductive harm, or~~
6 ~~developmental harm.~~

7 ~~(e) A violation of this section shall be deemed a violation of the Consumer~~
8 ~~Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same~~
9 ~~authority to make rules, conduct civil investigations, enter into assurances of~~
10 ~~discontinuance, and bring civil actions, and private parties have the same~~
11 ~~rights and remedies, as provided under 9 V.S.A. chapter 63, subchapter 1.~~

12 * * * Effective Dates * * *

13 Sec. 14. EFFECTIVE DATES

14 ~~(a) This section, 10 V.S.A. § 6633 in Sec. 1 (Interagency Committee on~~
15 ~~Chemical Management), Sec. 2 (appropriation for Interagency Committee on~~
16 ~~Chemical Management), and Sec. 9 (groundwater testing rulemaking) shall~~
17 ~~take effect on passage.~~

18 ~~(b) Sec. 1 (toxic use reduction program) shall take effect on July 1, 2019,~~
19 ~~except that 10 V.S.A. § 6625 (toxic use reduction rulemaking) and 10 V.S.A.~~
20 ~~§ 6629(f) (toxics use reduction planning program) shall take effect on~~
21 ~~July 1, 2017.~~

1 ~~(c) Sec. 12 (chemicals of high concern) shall take effect on~~

2 September 1, 2018.

3 (d) In Sec. 13:

4 (1) 18 V.S.A. § 1514(b) (dental floss) shall take effect on July 1,

5 2018; and

6 (2) 18 V.S.A. § 1514(c) (food contact substance) shall take effect on

7 July 1, 2019.

8 ~~(c) All other sections shall take effect on July 1, 2017.~~

** * * Toxics Use Reduction and Reporting * * **

Sec. 1. 10 V.S.A. § 6633 is added to read:

§ 6633. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT

(a) Creation. There is created the Interagency Committee on Chemical Management in the State to:

(1) evaluate chemical inventories in the State on an annual basis;

(2) identify potential risks to human health and the environment from chemical inventories in the State; and

(3) propose measures or mechanisms to address the identified risks from chemical inventories in the State.

(b) Membership. The Interagency Committee on Chemical Management shall be composed of the following five members:

(1) the Secretary of Agriculture, Food and Markets or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Commissioner of Health or designee;

(4) the Commissioner of Labor or designee; and

(5) the Commissioner of Public Safety or designee.

(c) Powers and duties. The Interagency Committee on Chemical Management shall:

(1) Convene a citizen advisory panel to provide input and expertise to

the Committee. The citizen advisory panel shall consist of persons with expertise in;

- (A) toxicology;
- (B) environmental law;
- (C) manufacturing products;
- (D) environmental health;
- (E) public health;
- (F) risk analysis;
- (G) maternal and child health care;
- (H) occupational health;
- (I) industrial hygiene;
- (J) public policy;
- (K) the operation of academic institutions; and
- (L) retail sales.

(2) Monitor actions taken by the U.S. Environmental Protection Agency (EPA) to regulate chemicals under the Toxic Substances Control Act, 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action relevant to the jurisdiction of the agency.

(3) Annually review chemical inventories in the State in relation to emerging scientific evidence in order to identify chemicals of high concern not regulated by the State.

(d) Assistance. The Interagency Committee on Chemical Management shall have the administrative, technical, and legal assistance of the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Department of Health; the Department of Public Safety; and the Department of Labor.

(e) Report. On or before January 15, and annually thereafter, the Interagency Committee on Chemical Management shall report to the Senate Committees on Natural Resources and Energy; on Health and Welfare; and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife; on Human Services, and on Commerce and Economic Development regarding the actions of the Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

(1) an estimate or summary of the known chemical inventories in the State;

(2) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State;

(3) recommended legislative or regulatory action to address the risks posed by new or emerging chemicals of high concern; and

(4) recommend legislative or regulatory action to reduce health risks from exposure to chemicals of high concern and reduce risks of harm to the natural environment.

(f) Meetings.

(1) The Secretary of Natural Resources shall be the chair of the Interagency Committee on Chemical Management.

(2) The Secretary of Natural Resources call the first meeting of the Interagency Committee on Chemical Management to occur on or before July 1, 2017.

(3) A majority of the membership of the Interagency Committee on Chemical Management shall constitute a quorum.

(g) Authority of agencies. The establishment of the Interagency Committee on Chemical Management shall not limit the independent authority of a State agency to regulate chemical use or management under existing State or applicable federal law.

**Sec. 2. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT;
REPORT ON TOXIC USE REDUCTION AND REPORTING**

On or before January 15, 2018, after consultation with the citizen advisory panel and as part of the first report required under 10 V.S.A. § 6633(e), the Interagency Committee on Chemical Management shall:

(1) Recommend how the State shall establish a centralized or unified electronic reporting system to facilitate compliance by businesses and other entities with chemical reporting and other regulatory requirements in the State. The recommendation shall:

(A) identify a State agency or department to establish and administer the reporting system;

(B) estimate the staff and funding necessary to administer the reporting system;

(C) propose how businesses and the public can access information submitted to or maintained as part of the reporting systems, including whether

access to certain information or categories of information should be limited due to statutory requirements, regulatory requirements, trade secret protection, or other considerations;

(D) propose how information maintained as part of the reporting system can be accessed, including whether the information should be searchable by: chemical name, common name, brand name, product model, Global Product Classification (GPC) product brick description, standard industrial classification, chemical facility, geographic area, zip code, or address;

(E) propose how manufacturers of consumer products or subsets of consumer products shall report or notify the State of the presence of designated chemicals of concern in a consumer product and how information reported by manufacturers is made available to the public;

(F) propose a method for displaying information or filtering or refining search results so that information maintained on the reporting system can be accessed or identified in serviceable or functional manner for all users of the system, including governmental agencies or departments, commercial and industrial businesses reporting to the system, nonprofit associations, and citizens; and

(G) estimate a time line for establishment of the reporting system.

(2) Recommend statutory amendments and regulatory revisions to existing State recordkeeping and reporting requirements for chemicals, hazardous materials, and hazardous wastes in order to facilitate assessment of risks to human health and the environment posed by the use of chemicals in the State. The recommendations shall include:

(A) the thresholds or amounts of chemicals used, manufactured, or distributed, and hazardous materials and hazardous wastes generated or managed, in the State that require recordkeeping and reporting;

(B) the persons or entities using, manufacturing, or distributing chemicals and generating or managing hazardous materials and hazardous wastes that are subject to recordkeeping and reporting requirements; and

(C) any changes required to streamline and modernize existing recordkeeping and reporting requirements to facilitate compliance by business and other entities.

(3) Recommend amendments to the requirements for Toxic Use Reduction and Hazardous Waste Reduction under 10 V.S.A. chapter 159, subchapter 2 that shall include:

(A) The list of chemicals or materials subject to the reporting and

planning requirements. The list of chemicals or materials shall include and be in addition to the chemicals or substances listed under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A. § 1773 (chemicals of high concern to children).

(B) The thresholds or amounts of chemicals used or hazardous waste generated by a person that require reporting and planning.

(C) The information to be reported, including:

(i) the quantity of hazardous waste generated and the quantity of hazardous waste managed during a year;

(ii) the quantity of toxic substances, or raw material resulting in hazardous waste, used during a year;

(iii) an assessment of the effect of each hazardous waste reduction measure and toxics use reduction measure implemented; and

(iv) a description of factors during a year that have affected toxics use, hazardous waste generation, releases into the environment, and onsite and offsite hazardous waste management.

(D) The persons or entities using chemicals or generating hazardous waste that are subject to reporting and planning;

(E) Proposed revisions to the toxic chemical or hazardous waste reduction planning requirements, including conditions or criteria that qualify a person to complete a plan.

(F) Any changes to streamline and modernize the program to improve its effectiveness.

(4) Draft legislation to implement the Committee's recommendations under subdivisions (1), (2), and (3) of this section.

* * * Testing Groundwater * * *

Sec. 3. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF GROUNDWATER SOURCES

(a) Definition. As used in this section, "groundwater source" means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Testing prior to new use. Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (d) of this section.

(c) Parameters of testing. A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) Submission of test results. Results of the testing required under subsection (b) shall be submitted, on a form provided by the Agency, to the Agency, and the Department of Health as required by rules adopted under subsection (e) of this section.

(e) Rulemaking. The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsections (b) and (c) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2018.

Sec. 5. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) ~~The commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

* * *

(f) A laboratory certified to conduct testing of groundwater sources or water supplies from under 10 V.S.A. § 1982 or other statute for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall submit the results of groundwater analyses to the department of health Department of Health and the agency of natural resources Agency of Natural Resources in a format required by the department of health Department of Health.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (Interagency Committee on Chemical Management), 2 (report on toxic use reduction and reporting), and 4 (groundwater testing rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018, except that 10 V.S.A. § 1982(f) in Sec. 3 shall take effect on passage.