

H.248

An act relating to miscellaneous revisions to the air pollution statutes

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

Sec. 1. 10 V.S.A. § 555 is amended to read:

§ 555. CLASSIFICATION, REPORTING, AND REGISTRATION

(a) The ~~secretary~~ Secretary, by rule, may classify air contaminant sources, which in his or her judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting by any class. Classifications made pursuant to this subsection may apply to the ~~state~~ State as a whole or to any designated area of the ~~state~~ State, and shall be made with special reference to effects on health, economic, and social factors, and physical effects on property.

\* \* \*

(c)(1) Any person operating or responsible for the operation of an air contaminant source ~~emitting more than five tons of contaminants per year~~ shall register the source with the ~~secretary~~ Secretary and renew the registration annually if the source emits:

(A) more than or equal to five tons of contaminants per year; or

(B) less than five tons of contaminants per year and is a source specified in rule by the Secretary.

(2) Each day of operating an air contaminant source without a valid, current registration shall constitute a separate violation and subject the operator to a civil penalty not to exceed \$100.00 per violation. The ~~secretary~~ Secretary shall, after notice and opportunity for public hearing, ~~promulgate~~ adopt rules to carry out this section.

Sec. 2. 10 V.S.A. § 584 is amended to read:

§ 584. INEFFICIENT OUTDOOR WOOD-FIRED BOILER CHANGE-OUT PROGRAM; RETIREMENT

(a) At the earliest feasible date, the ~~secretary~~ Secretary shall create and put into effect a change-out program within the ~~air pollution control division~~ Air Pollution Control Division of the ~~department of environmental conservation~~ Department of Environmental Conservation to purchase the retirement of inefficient, high emission outdoor wood-fired boilers (OWB) that will be replaced with OWBs or other heating appliances with substantially lower emissions and higher fuel efficiency.

(b) The ~~secretary~~ Secretary shall fund this program using ~~at least \$500,000.00 of the funds available to the state~~ State of Vermont for environmental mitigation projects under the consent decree approved on or about October 9, 2007, in the case of United States, et al. v. American Elec. Power Service Corp., et al., Civil Actions No. C2-99-1182, C2-99-1250, C2-04-1098, C2-05-360 (the AEP consent decree). The ~~secretary~~ Secretary

may add to this funding such additional ~~moneys~~ monies as may be appropriated to the program authorized under this section or otherwise may be available by grant, contribution, or donation.

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Sec. 3. 10 V.S.A. § 563 is amended to read:

§ 563. CONFIDENTIAL RECORDS; PENALTY

(a) Confidential records. ~~Any records or other information furnished to or obtained by the secretary concerning one or more air contaminant sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of the owner or operator, shall be only for the confidential use of the secretary in the administration of this chapter, unless the owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of the records or information by the secretary in compiling or publishing analyses of summaries relating to the general condition of the outdoor atmosphere: provided that the analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section. The Secretary shall not withhold emissions data and emission monitoring data from public inspection or review. The Secretary shall keep confidential any record or other information furnished~~

to or obtained by the Secretary concerning an air contaminant source, other than emissions data and emission monitoring data, that qualifies as a trade secret pursuant to 1 V.S.A. § 317(c)(9).

\* \* \*

Sec. 4. 10 V.S.A. § 556a is amended to read:

§ 556a. OPERATING PERMITS

(a) Upon a date specified in the rules adopted by the ~~secretary~~ Secretary to implement this section, it shall be unlawful for any person to operate an air contaminant source that has allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, except in compliance with a permit issued by the ~~secretary~~ Secretary under this section. The ~~secretary~~ Secretary may require that air contaminant sources with allowable emissions of 10 tons or less per year obtain such a permit, upon determining that the toxicity and quantity of hazardous air contaminants emitted may adversely affect susceptible populations, or if deemed appropriate based on an evaluation of the requirements of the federal Clean Air Act.

\* \* \*

(f) If an application for a permit renewal has been submitted to the ~~secretary~~ Secretary ~~12~~ six months prior to the termination of the permit, and any additional information requested by the ~~secretary~~ Secretary has been submitted in a timely manner, but the ~~secretary~~ Secretary has failed to issue or deny the

renewal permit before the end of the term of the previous permit, the permit shall not expire until the renewal permit has been issued or denied. In the event of a conflict between this subsection and 3 V.S.A. § 814(b), the provisions of this section shall govern.

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

§ 8003. APPLICABILITY

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

- (1) 10 V.S.A. chapter 23, relating to air quality;
- (2) 10 V.S.A. chapter 32, relating to flood hazard areas;
- (3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, and public water supply;
- (4) 10 V.S.A. chapters 41 and 43, relating to dams and stream alterations;
- (5) 10 V.S.A. chapter 37, relating to wetlands protection and water resources management;
- (6) 10 V.S.A. chapter 48, relating to well drillers and groundwater withdrawal;

- (7) 10 V.S.A. chapter 53, relating to beverage containers;
- (8) 10 V.S.A. chapter 59, relating to underground storage tanks;
- (9) 10 V.S.A. chapter 64, relating to potable water supplies and  
wastewater systems;
- (10) 10 V.S.A. chapter 151, relating to land use, and including findings  
and conclusions issued under section 6086b of this title;
- (11) [Repealed.]
- (12) 10 V.S.A. chapter 159, relating to solid waste, hazardous waste and  
hazardous materials;
- (13) 10 V.S.A. chapter 161, relating to low-level radioactive waste;
- (14) [Repealed.]
- (15) 29 V.S.A. chapter 11, relating to lands under public waters;
- (16) 10 V.S.A. chapter 162, relating to the Texas Low-Level  
Radioactive Waste Disposal Compact;
- (17) 10 V.S.A. § 2625, relating to heavy cutting of timber;
- (18) 10 V.S.A. chapter 164, relating to comprehensive mercury  
management;
- (19) 24 V.S.A. chapter 61, subchapter 10, relating to salvage yards;
- (20) 10 V.S.A. chapter 50, relating to the control of aquatic species and  
introduction of algicides, pesticides, and herbicides;

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste;

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps;

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a solid waste implementation plan that is consistent with the State Solid Waste Plan; ~~and~~

(24) 10 V.S.A. chapter 49A, relating to lake shoreland protection standards;:

(25) 10 V.S.A. chapter 83, subchapter 8, relating to the importation of firewood;:

(26) 10 V.S.A. chapter 168, relating to the collection and disposal of primary batteries; and

(27) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases.

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#### Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2015.