

STATE OF VERMONT

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. 02-19

[Interagency Committee on Chemical Management; Process for Review of Chemical Recordkeeping and Reporting Requirements]

WHEREAS, Vermonters may be exposed to harmful chemicals in drinking water, food supplies, outdoor and indoor air, and in consumer products; and

WHEREAS, the State does not have sufficient information—use, volume, location and toxicity, and potential risks —about chemicals present in the State; and

WHEREAS, sufficient information about chemicals present in the State is critical to the State’s ability to effectively respond to emergencies and threats to human health posed by harmful chemicals; ensure the safety of first responders; prioritize limited resources to address those chemicals that pose the greatest risk to Vermonters; assist Vermont businesses with compliance with federal and State laws related to chemical reporting and management requirements; and provide information to citizens about chemical use in the State; and

WHEREAS, Executive Order 13-17 of 2017 (2017 Order) established the Interagency Committee on Chemical Management (Committee) to evaluate chemical inventories in the State on an annual basis to identify potential risks to human health and the environment from regulated and unregulated chemicals in the State; and

WHEREAS, the 2017 Order requires the Committee to make recommendations to the Governor as to any necessary legislative or regulatory actions to reduce risks to Vermonters from unsafe chemicals on December 15, 2018, and requires a report to include, among other items, any recommended legislative or regulatory actions to reduce risks to human health and the environment from regulated and unregulated chemicals of emerging concern; and

WHEREAS, the Committee met routinely and consulted with a citizen advisory panel on proposed recommendations for legislative or regulatory actions to reduce risks from chemicals, including the development of a general framework to be used by the Committee to review and analyze risks posed by chemicals in order to consider appropriate changes to applicable recordkeeping, reporting, and other technical requirements; and

WHEREAS, the Committee submitted a report to the Governor on December 15, 2018. The report included recommendations for the establishment of a more specific process for coordinated State review of the risks to human health and the environment posed by chemicals, classes of chemicals, or groupings of chemicals, including chemicals of emerging concern, that are used or proposed for use in Vermont; and

WHEREAS, the chemical review process recommended by the Committee will provide a consistent and deliberative framework for the State's evaluation of chemicals and risks posed by those chemicals and will provide a transparent and coordinated approach to identifying and implementing legislative, regulatory or other changes needed to protect Vermonters and the environment from such risks.

NOW THEREFORE, I, Philip B. Scott, by virtue of the authority vested in me as Governor, do hereby amend and reaffirm the charge of the Interagency Committee on Chemical Management (Committee), as follows:

I. Composition; Chair of Committee

The Committee shall consist of the following members:

- A. the Secretary of the Agency of Natural Resources or designee;
- B. the Secretary of the Agency of Agriculture, Food and Markets or designee;
- C. the Secretary of the Agency of Commerce and Community Development or designee;
- D. the Commissioner of the Department of Health or designee;
- E. the Commissioner of the Department of Labor or designee;
- F. the Commissioner of the Department of Public Safety or designee; and
- G. the Secretary of the Agency of Digital Services or designee.

The Chair of the Committee shall be the Secretary of the Agency of Natural Resources or designee.

II. Committee Support and Authority

The Committee shall have the administrative, technical, and legal assistance from the Agency of Natural Resources; Agency of Agriculture, Food and Markets; the Department of Health; the Department of Public Safety; and the Department of Labor. The Committee may obtain additional expertise and resources needed in the review of chemicals pursuant to this process.

The Committee may develop written procedures, guidance and other resources that are necessary and appropriate to implement this Executive Order. All procedures, guidance, and other resources developed shall be made available to the public.

The Committee may also hold public meetings to present information, take testimony or discuss and receive input on nominations for chemical review, technical report recommendations or other appropriate topics.

III. Committee Charge and Process

The Committee shall make recommendations to the Governor, after consultation with a citizen advisory panel, to improve overall review and management of regulated and unregulated chemicals in the State and to improve and strengthen recordkeeping and reporting and other regulatory requirements. To meet this charge, the Committee shall:

A. Convene a citizen advisory panel to provide input and expertise to the Committee. The panel shall consist of persons available to the Committee on an as-needed basis to provide the following expertise:

- (1) One individual with expertise in toxicology;
- (2) One individual with expertise in environmental health;
- (3) One individual with expertise in maternal and child health;
- (4) One individual with expertise in industrial hygiene or occupational health;
- (5) One individual with expertise in human health and environmental risk assessment;
- (6) One individual with expertise in manufacturing products or processes located in Vermont and subject to Vermont recordkeeping and reporting requirements;
- (7) One individual with expertise in retail sales located in Vermont;
- (8) One individual associated with a small business located in Vermont and subject to Vermont recordkeeping and reporting requirements;
- (9) One individual associated with an academic institution with expertise in chemical management or chemical policy;
- (10) One individual with expertise in environmental law;
- (11) One individual with expertise in public policy, with a focus on chemical policy; and
- (12) One individual with expertise in development and administration of information reporting technology or databases.

B. Conduct a process to review and make recommendations to improve chemical management through changes to chemical recordkeeping, reporting or other requirements, including any legislative or regulatory changes. That process shall consist of the following steps:

(1) Nomination of Chemicals for Review.

Nominations may be made to the Committee to review a chemical, class of chemicals, or grouping of chemicals. Nominations may be made by the Committee, members of the citizens advisory panel, or the public. Nominations shall be submitted in writing to the Committee Chair on a form to be developed by the Committee, and shall include, at a minimum and to the extent available, the following information and any supporting documentation related to the chemical or chemicals that are the subject of the nomination:

- a. use and risk of adverse exposure in the State;
- b. information about the potential hazards or risks;

- c. information related to releases to the environmental media (e.g., air, water, soil);
- d. the extent to which the chemical is regulated by the State, the federal government, and/or other jurisdictions where the purpose of such regulation is to address the risks posed to human health or the environment; and
- e. any other information that the Committee determines is necessary to evaluate a chemical's use in the State and/or the risks to human health and the environment posed by the chemical in the State.

(2) Preliminary Committee Determination.

The Committee shall determine whether the information in a nomination warrants further technical review of the nominated chemical, class of chemicals, or grouping of chemicals. The Committee may require the submission of additional information prior to making a determination. The Committee may prioritize its review of nominations, and may consider the availability of information, Committee resources, and/or other factors that may limit further review of a nomination in its determination.

(3) Technical Team Review; Report.

Upon a determination of further technical review, the Committee shall establish a technical team to review the nominated chemical(s) and to make recommendations for changes to legislative or regulatory standards governing use of the chemical(s). The technical team shall consist of Committee members and/or designated Committee member representatives with relevant knowledge and expertise of the nominated chemical(s) including regulation, relevant uses, and/or the risks to human health and the environment posed by the chemical(s). The technical team may obtain additional expertise, as needed.

The technical team shall summarize its review and any recommendations in a written report. The report shall include the following information related to the chemical(s) nominated for review, as applicable and to the extent available:

- a. Current and/or expected future uses of the chemical, including a summary of estimated quantities of the chemical used, managed, or stored in association with these uses. This shall include a description of any known uses (by type) and amounts used, managed and/or stored in Vermont.
- b. Toxicity information.
- c. Routes of known and potential exposure.
- d. Known and potential impacts to public health and the environment. This shall include impacts to occupational health, public safety, and emergency response readiness.

- e. The status of applicable regulations, advisories, assessments, and/or other applicable information or data, developed by the State.
- f. The status of applicable regulations, advisories, assessments, or other applicable information or data developed by other states, the federal government or other jurisdictions.
- g. Recommendations for the development of legislative, regulatory, guidance or other changes that are appropriate to address risks posed to human health or the environment. Such recommendations may include proposals for the following or a combination thereof:
 - i. use reduction and exposure reduction techniques;
 - ii. alternatives to use;
 - iii. adoption of recordkeeping and/or reporting requirements;
 - iv. adoption of technical standards or limitations of use;
 - v. additional information or technical review that may be needed;
 - vi. no further action;
 - vii. any other changes in regulation or policy that may appropriate to address risks posed to human health or the environment posed by the nominated chemical(s).
- h. A description of the potential impact of each recommendation, including impacts to users of the chemical(s) in Vermont, agencies or other entities that have regulatory authority over the chemical(s), and the public.

(4) Committee Review of Technical Report; Findings.

The Committee shall review and make findings on a report submitted by a technical team. The Committee may prioritize its review of technical reports, and may consider the availability of information, Committee resources, and/or other factors that may limit review of technical reports. The Committee may obtain additional expertise or require the submission of additional information prior to making findings on a report.

The Committee may propose additional recommendations, including recommendation for the collection of additional information or for further technical review. The Committee shall issue its findings and a proposal for any additional recommendations in writing. The Committee's findings shall be submitted to the technical team and the citizens advisory panel and shall be made public.

(5) Citizens Advisory Panel Review of Committee's Findings.

The citizens advisory panel may review the findings of the Committee related to any technical report and may provide written comments to the Committee. The panel shall coordinate the review and submission of comments with the Committee prior to any final Committee action on the report.

(6) Committee Determination on Technical Report Recommendations

The Committee shall approve or deny, in whole or in part, any recommendations in a technical report and shall issue a written decision including findings supporting the actions taken. The Committee shall consider any comments submitted by the citizens advisory panel and the public and may address such comments in writing or in the Committee's written decision. A copy of the Committee's decision shall be made public and sent to the nominating entity, relevant executive agencies, and any other applicable entities.

C. Coordinate appropriate State agencies to implement the recommendations in the Committee's final report. Any recommendation for legislative modifications or any other recommendations shall be submitted to the Governor. A copy of any recommendations shall be submitted to the appropriate committees of jurisdiction of the General Assembly.

D. Issue a report and make recommendations to the Governor as to any necessary legislative or regulatory actions to reduce risks to Vermonters from unsafe chemicals on December 15, 2020 and biennially thereafter or as needed based on the work of the Committee. Copies of any reports shall be provided to the appropriate committees of jurisdiction of the General Assembly. The report shall include:

- (1) a summary of chemical use in the State based on reported chemical inventories;
- (2) a summary of identified risks to human health and the environment from reported chemical inventories;
- (3) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State; and
- (4) recommended legislative or regulatory action to reduce risks to human health and the environment from regulated and unregulated chemicals of emerging concern.

IV. Authority of Agencies

This Executive Order shall not limit the independent authority of a State agency to promulgate regulations related to the reporting, use, distribution, manufacture or release of chemicals or take other actions under existing State or applicable federal law.

V. Effective Date

This Executive Order shall take effect upon signing and shall supersede and replace Executive Order 13-17 (codified as E.O. No. 10-43).



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this ___ day of March, 2019.

A handwritten signature in black ink, appearing to read 'Philip B. Scott', is written over a horizontal line. The signature is stylized and cursive.

Philip B. Scott
Governor

By the Governor:

A handwritten signature in black ink, appearing to read 'Brittney L. Wilson', is written over a horizontal line.

Brittney L. Wilson
Secretary of Civil and Military Affairs

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