

1 H.586

2 Introduced by Committee on Fish, Wildlife and Water Resources

3 Date:

4 Subject: Conservation and development; agriculture; water quality

5 Statement of purpose of bill as introduced: This bill would adopt multiple

6 provisions related to the remediation and preservation of waters of the State.

7 Beginning January 1, 2019, livestock shall be excluded by fencing from

8 entering State waters. The Secretary of Agriculture, Food and Markets would

9 be required to adopt rules regulating when manure may be spread in the winter.

10 Farmers and custom applicators would be required to complete annual water

11 quality training. Under the bill, a permit issued by the Secretary of

12 Agriculture, Food and Markets for the application of a pesticide in a

13 right-of-way would be required to prohibit the application of pesticides within

14 50 feet of a surface water or a culvert. The bill also amends the definition of

15 watercourse under the stream alteration program. Beginning January 1, 2015,

16 the Secretary of Natural Resources would be required to permit discharges of

17 regulated stormwater runoff from the development, redevelopment, or

18 expansion of impervious surface equal to or greater than one-half acre. The

19 bill would also establish a Water Resources Preservation Program to fund

20 activities or projects to improve water quality, prevent or repair flood damage,

21 and provide reasonable assurance for implementation of Total Maximum Daily

22 Load plans. The Water Resources Preservation Program would be funded, in

1 part, by a fee assessed against all developed property. The bill also requires  
2 municipalities to adopt road and bridge standards that include best  
3 management practices to address water quality. In addition, the bill would  
4 provide an income tax credit for implementation of best management practices  
5 approved by the Secretary of Agriculture, Food and Markets. The bill would  
6 also impose a one-cent-per-bottle excise tax on bottled water and 10 cent per  
7 package excise tax on flushable products. The revenue generated from the  
8 bottled water excise tax and the flushable products excise tax would be  
9 deposited in a fund for implementation of the Water Resources Preservation  
10 Program.

11 An act relating to improving the quality of State waters

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

13 \* \* \* Agricultural Water Quality;

14 Small Farm Certification and Inspection \* \* \*

15 Sec. 1. 6 V.S.A. § 4858a is added to read:

16 § 4858a. SMALL FARM CERTIFICATION

17 (a) Definitions. As used in this section, “small farm” means:

18 (1) a “small farm,” as that term is defined in subdivision 4857(3) of this  
19 title, that is authorized to ship milk by the Secretary of Agriculture, Food and  
20 Markets; or

1           (2) an “animal feeding operation,” as that term is defined in subdivision  
2           4857(1) of this title, which houses:

3                   (A) five to 299 mature beef cattle; or

4                   (B) four to 150 horses or equines.

5           (b) Certification required. A person shall not operate a small farm in the  
6           State without a certification from the Secretary of Agriculture, Food and  
7           Markets.

8           (c) Content of certification. On or before January 1, 2015, and every five  
9           years thereafter, the owner or operator of a small farm shall certify to the  
10           Secretary of Agriculture, Food and Markets that the owner or operator  
11           complies with the accepted agricultural practices adopted under section 4810  
12           of this title. The certification shall identify the farm subject to the certification  
13           and the person or persons who own or operate the farm. The owner or operator  
14           of the farm shall certify that:

15                   (1) The farm does not directly discharge wastes into the surface waters  
16                   from a discrete conveyance such as a pipe, ditch, or conduit without a permit  
17                   under 10 V.S.A. § 1258.

18                   (2) Manure stacking sites, fertilizer storage, and other nutrient source  
19                   storage on the farm are not located within 100 feet of private wells.

20                   (3) Manure is not stacked or stored on lands subject to annual overflow  
21                   from adjacent waters.

1           (4) Manure is not field stacked on unimproved sites within 100 feet of a  
2           surface water.

3           (5) Barnyards, waste management systems, animal holding areas, and  
4           production areas shall be constructed, managed, and maintained to prevent  
5           runoff of waste to surface water, to groundwater, or across property  
6           boundaries.

7           (6) Nutrient application on the farm is based on soil testing by field and  
8           is consistent with university recommendations, standard agricultural practices,  
9           or a Secretary-approved nutrient management plan for the farm.

10           (7) Manure on the farm is not applied within 25 feet of an adjoining  
11           surface water, is not applied within 10 feet of a ditch, or applied in such a  
12           manner as to enter surface water.

13           (8) Fertigation and chemigation equipment is operated only with an  
14           adequate anti-siphon device between the system and the water source.

15           (9) Cropland on the farm is cultivated in a manner that results in an  
16           average soil loss of less than or equal the soil loss tolerance for the prevalent  
17           soil, known as 1T, as calculated through application of the Revised Universal  
18           Soil Loss Equation, or through the application of similarly accepted models.

19           (10) A vegetative buffer zone of perennial vegetation is maintained  
20           between annual croplands and the top of the bank of adjoining surface waters  
21           in a manner that complies with requirements of the accepted agricultural  
22           practices.

1           (11) Manure, fertilizer, pesticide storage structures, and farm structures  
2           are not located within a floodway area as presented on National Flood  
3           Insurance Maps on file with town clerks or within a Fluvial Erosion Hazard  
4           Zone as designated by municipal bylaw or ordinance.

5           (d) Required inspection. The Secretary shall inspect small farms in the  
6           State for compliance with the accepted agricultural practices and for  
7           consistency with a certification issued under this section.

8           (e)(1) Identification; ranking of water quality needs. During an inspection  
9           of a small farm under subsection (d) of this section, the Secretary shall identify  
10           areas where the farm could benefit from capital, structural, or technical  
11           assistance that could reduce the risk of discharge or runoff of waste to surface  
12           waters of the State.

13           (2) Annually, the Secretary shall establish a priority ranking system for  
14           small farms according to the risk of potential discharge or runoff to a water of  
15           the State if the identified capital, structural, or technical needs on the farm are  
16           not addressed.

17           (3) Notwithstanding the requirements of section 4823 of this title, a farm  
18           identified under subdivision (2) of this subsection as a high risk of discharge or  
19           runoff to a water of the State shall be given first priority for state financial  
20           assistance under subchapter 3 of this chapter.

1        (f) Annual training. Annually, the owner or operator of a small farm shall  
2        complete a training course approved by the Secretary under section 4981 of  
3        this title.

4        Sec. 2. 6 V.S.A. § 4860 is amended to read:

5        § 4860. REVOCATION; ENFORCEMENT

6        (a) The ~~secretary~~ Secretary may revoke coverage under a general permit ~~or,~~  
7        an individual permit, or a small farm certification issued under this subchapter  
8        after following the same process prescribed by section 2705 of this title  
9        regarding the revocation of a handler's license. The ~~secretary~~ Secretary may  
10       also seek enforcement remedies under sections 1, 11, 12, 13, 16, and 17 of this  
11       title as well as assess an administrative penalty under section 15 of this title  
12       from any person who fails to comply with any permit provision as required by  
13       this subchapter or who violates the terms or conditions of coverage under any  
14       general permit ~~or,~~ any individual permit, or any small farm certification issued  
15       under this subchapter. However, notwithstanding provisions of section 15 of  
16       this title to the contrary, the maximum administrative penalty assessed for a  
17       violation of this subchapter shall not exceed \$5,000.00 for each violation, and  
18       the maximum amount of any penalty assessed for separate and distinct  
19       violations of this chapter shall not exceed \$50,000.00.

20       (b) Any person who violates any provision of this subchapter or who fails  
21       to comply with any order or the terms of any permit or certification issued in  
22       accordance with this subchapter shall be fined not more than \$10,000.00 for

1 each violation. Each violation may be a separate offense and, in the case of a  
2 continuing violation, each day's continuance may be deemed a separate  
3 offense.

4 (c) Any person who knowingly makes any false statement, representation,  
5 or certification in any application, record, report, plan, certification, or other  
6 document filed or required to be maintained by this subchapter or by any  
7 permit, rule, regulation, or order issued under this subchapter, or who falsifies,  
8 tampers with, or knowingly renders inaccurate any monitoring device or  
9 method required to be maintained by this subchapter or by any permit, rule,  
10 regulation, or order issued under this subchapter shall upon conviction be  
11 punished by a fine of not more than \$5,000.00 for each violation. Each  
12 violation may be a separate offense and, in the case of a continuing violation,  
13 each day's continuance may be deemed a separate offense.

14 \* \* \* Agricultural Water Quality; Livestock Exclusion \* \* \*

15 Sec. 3. 6 V.S.A. chapter 215, subchapter 8 is added to read:

16 Subchapter 8. Livestock Exclusion

17 § 4971. DEFINITIONS

18 As used in this subchapter:

19 (1) "Livestock" means cattle, sheep, goats, equines, fallow deer, red  
20 deer, American bison, swine, water buffalo, poultry, pheasant, Chukar  
21 partridge, Coturnix quail, camelids, and ratites.

22 (2) "Waters" shall have the same meaning as in 10 V.S.A. § 1251(13).

1     § 4972. LIVESTOCK EXCLUSION

2           (a) On or before January 1, 2019, a person who owns livestock shall install  
3     structures or fencing intended to exclude livestock from entering the waters of  
4     the State.

5           (b) Beginning January 1, 2019, a person who owns livestock shall exclude  
6     livestock from entering the waters of the State, unless:

7           (1) the Secretary grants the person who owns the livestock a waiver  
8     from excluding livestock from a particular water of the State; or

9           (2) the Secretary determines limited access by livestock to a water is  
10    required in order to control an invasive species of plants.

11    § 4973. ENFORCEMENT; INCORPORATION INTO EXISTING PERMIT

12           Beginning January 1, 2019, the requirement under section 4972 of this title  
13    to exclude livestock from waters of the State shall be incorporated as a  
14    condition of and enforced according to the authority for:

15           (1) a large farm permit issued under section 4851 of this title;

16           (2) an animal waste permit issued under section 4858 of this title; or

17           (3) a small farm certification issued under section 4858a of this title.

18    Sec. 4. 6 V.S.A. § 4824a is added to read:

19    § 4824a. STATE FINANCIAL ASSISTANCE; LIVESTOCK EXCLUSION

20           (a) Notwithstanding the priorities for state financial assistance under  
21    section 4823 of this title, construction of fencing in order to comply with the  
22    requirement of section 4972 of this title to exclude livestock from entering the



1 waters of the State shall be given first priority for State financial assistance  
2 under this subchapter.

3 (b) Prior to an award of State financial assistance under this subchapter to  
4 construct livestock exclusion fencing as a best management practice, an  
5 applicant shall be required to show proof that he or she or it applied to the  
6 NRCS for assistance under the Environmental Quality Incentive Program or  
7 the Conservation Reserve Enhancement Program but were deemed not eligible  
8 to participate.

9 (c) Notwithstanding the priority established under subsection (a) of this  
10 section, the Secretary of Agriculture, Food and Markets may prioritize the  
11 award of financial assistance for activities other than livestock exclusion  
12 fencing when the Secretary of Agriculture, Food and Markets determines a  
13 severe condition exists that threatens water quality and that requires immediate  
14 abatement.

15 Sec. 5. SUNSET

16 6 V.S.A. § 4824a (priority; State financial assistance for livestock  
17 exclusion) shall be repealed on January 1, 2019.

1                                   \* \* \* Seasonal Application of Manure \* \* \*

2           Sec. 6. 6 V.S.A. § 4816 is added to read:

3           § 4816. SEASONAL APPLICATION OF MANURE

4           (a) On or before July 1, 2015, the Secretary of Agriculture, Food and  
5           Market shall adopt rules regarding the application of manure to land in the  
6           State between December 15 and April 1 of any calendar year. The rules shall:

7           (1) prohibit application of manure:

8                           (A) in areas with established channels of concentrated stormwater  
9           runoff to surface water;

10                          (B) in nonharvested permanent vegetative buffers;

11                          (C) in a nonfarmed wetland, as that term is defined in 10 V.S.A.

12           § 902(5);

13                          (D) within 50 feet of a potable water supply, as that term is defined in  
14           10 V.S.A. § 1972(6);

15                          (E) to fields exceeding tolerable soil loss; and

16                          (F) to saturated soils;

17           (2) establish requirements for the application of manure when frozen or  
18           snow-covered soils prevent effective incorporation at the time of application;

19           (3) require manure to be applied according to a nutrient management  
20           plan; and

21           (4) establish the maximum tons of manure that may be applied per acre  
22           during any one application.

1       (b) A person shall not apply manure to land in the State between December  
2       15 and April 1 of any calendar year unless authorized by the rules adopted by  
3       the Secretary of Agriculture, Food and Markets under subsection (a) of this  
4       section.

5                   \* \* \* Agricultural Water Quality; Training\* \* \*

6       Sec. 7. 6 V.S.A. chapter 215, subchapter 9 is added to read:

7               Subchapter 9. Agricultural Water Quality Certification Training

8       § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

9               TRAINING

10       (a) The Secretary of Agriculture, Food and Markets annually shall conduct  
11       or shall approve training classes or programs regarding:

12               (1) the prevention of and prohibition on discharges, as that term is  
13       defined in 10 V.S.A. § 1251(3);

14               (2) the mitigation and management of stormwater runoff, as that term is  
15       defined in 10 V.S.A. § 1264, from farms.

16       (b) The training program shall address:

17               (1) the existing statutory and regulatory requirements for operation of a  
18       large, medium, or small farm in the State;

19               (2) the management practices and technical and financial resources  
20       available to assist in compliance with statutory or regulatory agricultural  
21       requirements.

1                                   \* \* \* Agricultural Water Quality;

2                                   Certification of Custom Applicators \* \* \*

3       Sec. 8. 6 V.S.A. chapter 215, subchapter 10 is added to read:

4                                   Subchapter 10. Certification of Custom Manure Applicators

5       § 4987. DEFINITIONS

6                   As used in this subchapter:

7                   (1) “Custom manure applicator” means a person who applies manure,  
8                   nutrients, or sludge to land and who charges for the service.

9                   (2) “Manure” means livestock that may also contain bedding, spilled  
10                   feed, water, or soil.

11                   (3) “Sludge” means any solid, semisolid, or liquid generated from a  
12                   municipal, commercial, or industrial wastewater treatment plant or process,  
13                   water supply treatment plant, air pollution control facility, or any other such  
14                   waste having similar characteristics and effects.

15       § 4988. CERTIFICATION OF CUSTOM MANURE APPLICATOR

16                   (a) On or before January 1, 2015, the Secretary of Agriculture, Food and  
17                   Markets shall adopt by procedure a process by which a custom applicator shall  
18                   be certified to operate within the State. The certification process shall require  
19                   a custom applicator to complete annual training regarding:

20                   (1) application methods or techniques to minimize the runoff of  
21                   land-applied manure, nutrients, or sludge to waters of the State; and

1           (2) identification of weather or soil conditions that increase the risk of  
2           runoff of land-applied manure, nutrients, or sludge to waters of the State.

3           (b) Beginning January 1, 2015, a custom applicator shall not apply manure,  
4           nutrients, or sludge unless certified by the Secretary of Agriculture, Food and  
5           Markets.

6                                 \* \* \* Right-of-Way Pesticide Permit \* \* \*

7           Sec. 9. 6 V.S.A. § 1101 is amended to read:

8           § 1101. DEFINITIONS

9           As used in this chapter ~~unless the context clearly requires otherwise:~~

10           (1) “Secretary” shall have the meaning stated in subdivision 911(4) of  
11           this title.

12           (2) “Cumulative” when used in reference to a substance means that the  
13           substance so designated has been demonstrated to increase twofold or more in  
14           concentration if ingested or absorbed by successive life forms.

15           (3) “Dealer or pesticide dealer” means any person who regularly sells  
16           pesticides in the course of business, but not including a casual sale.

17           (4) “Economic poison” shall have the meaning stated in subdivision  
18           911(5) of this title.

19           (5) “Pest” means any insect, rodent, nematode, fungus, weed, or any  
20           other form of terrestrial or aquatic plant or animal life or virus, bacteria, or  
21           other ~~micro-organisms, which~~ microorganisms that the secretary Secretary  
22           declares as being injurious to health or environment. Pest shall not mean any

1 viruses, bacteria, or other micro-organisms on or in living ~~man~~ humans or  
2 other living animals.

3 (6) "Pesticide" for the purposes of this chapter shall be used  
4 interchangeably with "economic ~~poison~~". poison."

5 (7) "Right-of-way" means an interest in real property, above, on, or  
6 below the ground, which entitles the holder of the interest to pass over the land  
7 for the purpose of carrying, transmitting, or transporting liquids, gases,  
8 electricity, communications, vehicles, or people. For the purposes of this  
9 chapter, it is immaterial whether the right-of-way is owned, leased, or an  
10 easement. The term "right-of-way" includes properties owned or leased by  
11 utilities where that property is used as a right-of-way.

12 Sec. 10. 6 V.S.A. § 1113 is added to read:

13 § 1113. PERMITS; RIGHT-OF-WAY

14 Beginning July 1, 2014, a permit issued under this chapter for the  
15 application of pesticides in a right-of-way shall prohibit the application of  
16 pesticides within 50 feet of either side of any surface water, within 50 feet of  
17 any culvert, at the base of any signage post, or in any roadside ditches.

18 \* \* \* Stream Alteration \* \* \*

19 Sec. 11. 10 V.S.A. § 1002 is amended to read:

20 § 1002. DEFINITIONS

21 Wherever used or referred to in this chapter, unless a different meaning  
22 clearly appears from the context:

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\* \* \*

(10) “Watercourse” means any perennial stream, as determined by the Secretary, and shall include any stream in the State that the U.S. Geologic Survey designated or mapped as a perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

\* \* \*

\* \* \* Stormwater Management \* \* \*

Sec. 12. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

(a) The ~~general assembly~~ General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and local flooding, all of which have adverse impacts on the water and land resources of the ~~state~~ State. The ~~general assembly~~ General Assembly intends, by enactment of this section, to reduce the adverse effects of stormwater runoff. The ~~general assembly~~ General Assembly determines that this intent may best be attained by a process that: assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; assures an adequate funding source; builds broadbased programs; provides for the

1 evaluation and appropriate evolution of programs; is consistent with the federal  
2 Clean Water Act and the ~~state~~ State water quality standards; and accords  
3 appropriate recognition to the importance of community benefits that  
4 accompany an effective stormwater runoff management program. In  
5 furtherance of these purposes, the ~~secretary~~ Secretary shall implement two  
6 stormwater permitting programs. The first program is based on the  
7 requirements of the federal National Pollutant Discharge Elimination System  
8 (NPDES) permit program in accordance with section 1258 of this title. The  
9 second program is a ~~state~~ State permit program based on the requirements of  
10 this section for the discharge of “regulated stormwater runoff” as that term is  
11 defined in subdivision (11) of this subsection. As used in this section:

12 (1) “2002 stormwater management manual” means the ~~agency of natural~~  
13 ~~resources’~~ Agency of Natural Resources’ stormwater management manual  
14 dated April 2002, as amended from time to time by rule.

15 (2) “Best management practice” (BMP) means a schedule of activities,  
16 prohibitions of practices, maintenance procedures, and other management  
17 practices to prevent or reduce water pollution.

18 (3) “Development” means the construction of impervious surface on a  
19 tract or tracts of land where no impervious surface previously existed.

20 (4) “Existing stormwater discharge” means a discharge of regulated  
21 stormwater runoff which first occurred prior to June 1, 2002 and that is subject  
22 to the permitting requirements of this chapter.



1           (5) “Expansion” and “the expanded portion of an existing discharge”  
2 mean an increase or addition of impervious surface, such that the total resulting  
3 impervious area is greater than the minimum regulatory threshold. Expansion  
4 does not mean an increase or addition of impervious surface of less than 5,000  
5 square feet.

6           (6) “Impervious surface” means those manmade surfaces, including  
7 paved and unpaved roads, parking areas, roofs, driveways, and walkways, from  
8 which precipitation runs off rather than infiltrates.

9           (7) “New stormwater discharge” means a new or expanded discharge of  
10 regulated stormwater runoff, subject to the permitting requirements of this  
11 chapter, which first occurs after June 1, 2002 and has not been previously  
12 authorized pursuant to this chapter.

13           (8) “Offset” means a ~~state-permitted or approved~~ State-permitted  
14 or -approved action or project within a stormwater-impaired water that a  
15 discharger or a third person may complete to mitigate the impacts that a  
16 discharge of regulated stormwater runoff has on the stormwater-impaired  
17 water.

18           (9) “Offset charge” means the amount of sediment load or hydrologic  
19 impact that an offset must reduce or control in the stormwater-impaired water  
20 in which the offset is located.

21           (10) “Redevelopment” means the construction or reconstruction of an  
22 impervious surface where an impervious surface already exists when such new

1 construction involves substantial site grading, substantial subsurface  
2 excavation, or substantial modification of existing stormwater conveyance,  
3 such that the total of impervious surface to be constructed or reconstructed is  
4 greater than the minimum regulatory threshold. Redevelopment does not mean  
5 the construction or reconstruction of impervious surface where impervious  
6 surface already exists when the construction or reconstruction involves less  
7 than 5,000 square feet. Redevelopment does not mean public road  
8 management activities, including any crack sealing, patching, coldplaning,  
9 resurfacing, reclaiming, or grading treatments used to maintain pavement,  
10 bridges, and unpaved roads.

11 (11) “Regulated stormwater runoff” means precipitation, snowmelt, and  
12 the material dissolved or suspended in precipitation and snowmelt that runs off  
13 impervious surfaces and discharges into surface waters or into groundwater via  
14 infiltration.

15 (12) “Stormwater impact fee” means the monetary charge assessed to a  
16 permit applicant for the discharge of regulated stormwater runoff to a  
17 stormwater-impaired water that mitigates a sediment load level or hydrologic  
18 impact that the discharger is unable to control through on-site treatment or  
19 completion of an offset on a site owned or controlled by the permit applicant.

20 (13) “Stormwater-impaired water” means a ~~state~~ State water that the  
21 ~~secretary~~ Secretary determines is significantly impaired by discharges of  
22 regulated stormwater runoff.

1           (14) “Stormwater runoff” means precipitation and snowmelt that does  
2 not infiltrate into the soil, including material dissolved or suspended in it, but  
3 does not include discharges from undisturbed natural terrain or wastes from  
4 combined sewer overflows.

5           (15) “Total maximum daily load” (TMDL) means the calculations and  
6 plan for meeting water quality standards approved by the U.S. Environmental  
7 Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and  
8 federal regulations adopted under that law.

9           (16) “Water quality remediation plan” means a plan, other than a TMDL  
10 or sediment load allocation, designed to bring an impaired water body into  
11 compliance with applicable water quality standards in accordance with  
12 40 C.F.R. § 130.7(b)(1)(ii) and (iii).

13           (17) “Watershed improvement permit” means a general permit specific  
14 to a stormwater-impaired water that is designed to apply management  
15 strategies to existing and new discharges and that includes a schedule of  
16 compliance no longer than five years reasonably designed to assure attainment  
17 of the Vermont water quality standards in the receiving waters.

18           (18) “Stormwater system” means the storm sewers; outfall sewers;  
19 surface drains; manmade wetlands; channels; ditches; wet and dry bottom  
20 basins; rain gardens; and other control equipment necessary and appurtenant to  
21 the collection, transportation, conveyance, pumping, treatment, disposal, and  
22 discharge of regulated stormwater runoff.

1 (19) “Net zero standard” means:

2 (A) A new discharge or the expanded portion of an existing discharge  
3 meets the requirements of the 2002 stormwater management manual and does  
4 not increase the sediment load in the receiving stormwater-impaired water; or

5 (B) A discharge from redevelopment; from an existing discharge  
6 operating under an expired stormwater discharge permit where the property  
7 owner applies for a new permit; or from any combination of development,  
8 redevelopment, and expansion meets on-site the water quality, recharge, and  
9 channel protection criteria set forth in Table 1.1 of the 2002 stormwater  
10 management manual that are determined to be technically feasible by an  
11 engineering feasibility analysis conducted by the ~~agency~~ Agency and if the  
12 sediment load from the discharge approximates the natural runoff from an  
13 undeveloped field or open meadow that is not used for agricultural activity.

14 (b) The ~~secretary~~ Secretary shall prepare a plan for the management of  
15 collected stormwater runoff found by the ~~secretary~~ Secretary to be deleterious  
16 to receiving waters. The plan shall recognize that the runoff of stormwater is  
17 different from the discharge of sanitary and industrial wastes because of the  
18 influence of natural events of stormwater runoff, the variations in  
19 characteristics of those runoffs, and the increased stream flows and natural  
20 degradation of the receiving water quality at the time of discharge. The plan  
21 shall be cost effective and designed to minimize any adverse impact of  
22 stormwater runoff to waters of the ~~state~~ State. By no later than February 1,

1 2001, the ~~secretary~~ Secretary shall prepare an enhanced stormwater  
2 management program and report on the content of that program to the ~~house~~  
3 ~~committees on fish, wildlife and water resources and on natural resources and~~  
4 ~~energy and to the senate committee on natural resources and energy~~ House  
5 Committees on Fish, Wildlife and Water Resources and on Natural Resources  
6 and Energy and to the Senate Committee on Natural Resources and Energy. In  
7 developing the program, the ~~secretary~~ Secretary shall consult with ~~the board,~~  
8 affected municipalities, regional entities, other ~~state~~ State and federal agencies,  
9 and members of the public. The ~~secretary~~ Secretary shall be responsible for  
10 implementation of the program. The ~~secretary's~~ Secretary's stormwater  
11 management program shall include, at a minimum, provisions that:

12 \* \* \*

13 (12) Encourage municipal governments to utilize existing regulatory and  
14 planning authority to implement improved stormwater management by  
15 providing technical assistance, training, research and coordination with respect  
16 to stormwater management technology, ~~and by preparing and distributing a~~  
17 ~~model local stormwater management ordinance.~~ To fulfill this requirement,  
18 the Secretary, on or before January 1, 2015, shall create and make available to  
19 municipalities a model stormwater bylaw or ordinance for potential adoption  
20 by municipalities pursuant to 24 V.S.A. chapters 97 and 101, as those chapters  
21 define "sewage" and "sewage system" to include stormwater.

1           (13) Promote public education and participation among citizens and  
2 municipalities about cost-effective and innovative measures to reduce  
3 stormwater discharges to the waters of the ~~state~~ State.

4   \* \* \*

5           (d)(1) The ~~secretary~~ Secretary shall initiate rulemaking by October 15,  
6 2004, and shall adopt a rule for a stormwater management program by June 15,  
7 2005. The rule shall be adopted in accordance with 3 V.S.A. chapter 25 and  
8 shall include:

9                         (A) the regulatory elements of the program identified in subsection  
10 (b) of this section, including the development and use of offsets and the  
11 establishment and imposition of stormwater impact fees to apply when issuing  
12 permits that allow regulated stormwater runoff to stormwater-impaired waters;

13                         (B) requirements concerning the contents of permit applications that  
14 include, at a minimum, for regulated stormwater runoff, the permit application  
15 requirements contained in the ~~agency's~~ Agency's 1997 stormwater  
16 management procedures;

17                         (C) a system of notifying interested persons in a timely way of the  
18 ~~agency's~~ Agency's receipt of stormwater discharge applications, provided any  
19 alleged failures with respect to such notice shall not be relevant in any ~~agency~~  
20 Agency permit decision or any appeals brought pursuant to section 1269 of this  
21 chapter;

1           (D)(i) requirements, to be implemented until January 1, 2015,  
2 concerning a permit for discharges of regulated stormwater runoff from the  
3 development, redevelopment, or expansion of impervious surfaces equal to or  
4 greater than one acre or any combination of development, redevelopment, and  
5 expansion of impervious surfaces equal to or greater than one acre; and

6           (ii) requirements, to be implemented, beginning January 1, 2015,  
7 concerning a permit for discharges of regulated stormwater runoff from the  
8 development, redevelopment, or expansion of impervious surfaces equal to or  
9 greater than one-half acre or any combination of development, redevelopment,  
10 and expansion of impervious surfaces equal to or greater than one-half  
11 acre; and

12           (E) requirements concerning a permit for discharges of regulated  
13 stormwater runoff from an impervious surface of any size to  
14 stormwater-impaired waters if the ~~secretary~~ Secretary determines that  
15 treatment is necessary to reduce the adverse impact of such stormwater  
16 discharges due to the size of the impervious surface, drainage patterns,  
17 hydraulic connectivity, existing stormwater treatment, or other factors  
18 identified by the ~~secretary~~ Secretary.

19           (2) Notwithstanding 3 V.S.A. § 840(a), the ~~secretary~~ Secretary shall  
20 hold at least three public hearings in different areas of the ~~state~~ State regarding  
21 the proposed rule.

22           \* \* \*

1                   \* \* \* Water Resources Preservation Program \* \* \*

2           Sec. 13. 10 V.S.A. chapter 47, subchapter 1A is added to read:

3                   Subchapter 1A. Water Resources Preservation Program

4           § 1291. DEFINITIONS

5           As used in this subchapter:

6                   (1) “Best management practices” or “BMPs” shall have the same  
7 meaning as in subdivision 1264(a)(2) of this title.

8                   (2) “Impervious surface” shall have the same meaning as in subdivision  
9 1264(a)(6) of this title.

10                  (3) “Secretary” means the Secretary of Natural Resources.

11                  (4) “Stormwater runoff” shall have the same meaning as in subdivision  
12 1264(a)(14) of this title.

13                  (5) “Total maximum daily load” shall have the same meaning as in  
14 subdivision 1264(15) of this title.

15                  (6) “Waters” shall have the same meaning as in subdivision 1251(13) of  
16 this title.

17           § 1292. WATER RESOURCES PRESERVATION PROGRAM;

18                   ESTABLISHMENT

19                  (a) There is established within the Agency of Natural Resources a Water  
20 Resources Preservation Program to provide financial assistance and technical  
21 support to projects or activities designed to achieve one or more of the  
22 following:



- 1           (1) improvement of the quality of waters of the State;  
2           (2) prevention, mitigation against, or repair of flood damage; or  
3           (3) provision of reasonable assurances regarding the implementation of  
4 Total Maximum Daily Load plans.

5           (b) Under the Water Resources Preservation Program, the Secretary shall  
6 provide grants or loans to municipalities or private entities to:

7           (1) implement BMPs designed to intercept, infiltrate, or evaporate  
8 stormwater from the built environment;

9           (2) implement BMPs designed to improve the quantity and quality of  
10 stormwater runoff from agricultural operations;

11           (3) implement BMPs or other measures in unimpaired waters in order to  
12 comply with the antidegradation policy in the water quality standards and rules  
13 to implement such policy;

14           (4) construct, renovate, replace, or repair transportation and other  
15 infrastructure in response to flood damage, to prevent future flood damage, to  
16 address size or capacity limitations, or in order to improve water quality;

17           (5) implement river corridor protection measures, streambank  
18 stabilization, and channel improvements to repair flood damage, reduce flood  
19 threat, or improve water quality or flood resiliency;

20           (6) monitor or assess previous or ongoing water quality or flood  
21 response programs;

1           (7) conduct education and outreach activities regarding the need for and  
2           benefits of water quality restoration, BMPs to reduce water quality impacts, the  
3           construction or repair of infrastructure related to water quality, and flood  
4           hazard management, including activities necessary to fulfil the education and  
5           outreach requirements or obligations of municipalities subject to the municipal  
6           separate storm sewer requirements under the federal Clean Water Act.

7           (c) The Secretary shall develop standards for the collection and  
8           management of data related to water quality, compliance with a  
9           watershed-based plan, and management of water quality infrastructure. A  
10           mandatory condition of all grants or loans awarded under this subchapter shall  
11           be implementation of the Secretary's standards for collection and management  
12           of data regarding water quality and the efficacy of the activities funded by the  
13           grant or loan.

14           § 1293. WATER RESOURCES PRESERVATION FEE

15           (a)(1) The Secretary shall establish by rule a fee, known as the Water  
16           Resources Preservation fee, on all developed property in the State for the  
17           support of the Water Resources Preservation Program and its purposes as set  
18           forth under section 1292 of this title. Property exempt from taxation under  
19           32 V.S.A. § 3802, 32 V.S.A. chapter 135, or by municipal vote shall not be  
20           exempt from assessment of the fee under this section. The fee on developed  
21           property shall be assessed in proportion to the property's area of impervious  
22           surface, provided that the Secretary may establish a default fee for residential

1 developed property based on the average estimated horizontal impervious  
2 surface area for a single-family residential unit in Vermont. The default fee for  
3 residential developed property shall not exceed \$50.00 per year per parcel of  
4 property.

5 (2) Under the rules regarding the Water Resources Preservation fee, the  
6 Secretary may:

7 (A) authorize a reduced fee if the developed property has  
8 implemented BMPs authorized by the Secretary.

9 (B) authorize a reduced fee if property used for farming is subject to  
10 a U.S. Department of Agriculture Natural Resources Conservation Service  
11 conservation plan that includes an updated and current implementation  
12 schedule.

13 (C) authorize a fee structure that is graduated based on the amount of  
14 land assessed.

15 (D) provide for exemptions from the fee.

16 (b)(1) Beginning on July 1, 2015, the Water Resources Preservation fee  
17 shall be assessed and collected as part of the tax bill issued under 32 V.S.A.  
18 § 5402(b). The treasurer of each municipality shall remit the collected Water  
19 Resources Preservation fees to the State Treasurer in two payments due on  
20 December 1 and June 1 of each year for deposit in the Water Resources  
21 Preservation Fund. The Department of Taxes shall specify the form or format  
22 for the remission of the collected fees.

1           (2)(A) Except as set forth in subdivision (B) of this subdivision (2), a  
2           municipality remitting fees under this section may retain 0.225 of one percent  
3           of the total fees collected, only upon timely remittance of net payment to the  
4           State Treasurer.

5           (B) A municipality remitting fees under this section may retain 0.450  
6           of one percent of the total fees collected, only upon timely remittance of net  
7           payment to the State Treasurer if:

8                   (i) the municipality has established or is a member of a system  
9                   or utility under 24 V.S.A. chapter 97 for the treatment or disposal  
10                  of stormwater; or

11                   (ii) the municipality has enacted zoning bylaws, a municipal  
12                  ordinance, or other mechanism that the Secretary approves as equivalent to a  
13                  system or utility established under 24 V.S.A. chapter 97.

14           § 1294. WATER QUALITY DATA COORDINATION; REMEDIATION  
15                   ASSESSMENT

16           (a) To facilitate attainment or accomplishment of the purposes of the Water  
17           Resources Preservation Program as set forth under section 1292 of this title,  
18           the Secretary shall coordinate and assess all available data and science  
19           regarding the quality of the waters of the State, including:

20                   (1) light detection and ranging information data (LIDAR) identifying  
21                   water quality issues;

22                   (2) stream gauge data;

- 1           (3) stream mapping, including fluvial erosion hazard maps;  
2           (4) water quality monitoring or sampling data; and  
3           (5) any other data available to the Secretary.

4           (b) After coordination of the data required under subsection (a) of this  
5           section, the Secretary shall:

6           (1) assess where additional data are needed and the best methods for  
7           collection of such data;

8           (2) identify and map on a regional basis areas of the State that are  
9           significant contributors to water quality problems or are in critical need of  
10          water quality remediation or response.

11          § 1295. WATER RESOURCES PRESERVATION FUND

12          (a) There is hereby established in the State Treasury a special fund to be  
13          known as the Water Resources Preservation Fund, to be administered and  
14          expended by the Secretary to fund the Water Resources Preservation Program.  
15          The Secretary may authorize disbursement or expenditures from the Fund for  
16          the purposes of the Water Resources Preservation Program set forth in section  
17          1292 of this title.

18          (b) There shall be deposited into the Fund:

19               (1) The Water Resources Preservation fees remitted to the State under  
20               section 1293 of this title;

21               (2) The excise tax on bottled water imposed under 32 V.S.A. § 10401.

22               (3) The flushable products excise tax under 32 V.S.A. § 10402.

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

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

5           (c) Interest earned by the Fund shall be credited and deposited to the Fund.  
6           All balances in the Fund at the end of the fiscal year shall be carried forward  
7           and remain a part of the Fund.

8           § 1296. AWARD OF FUNDS; PRIORITY AWARD

9           (a) The Secretary shall award grants or loans for activities in one of the 15  
10           watersheds of the State. Awards from the Water Resources Preservation Fund  
11           shall be allocated among the 15 watersheds of the State in proportion to the  
12           amount of Water Resources Preservation fee collected from each watershed.

13           (b) Grants or loans from the Water Resources Preservation Fund shall be  
14           awarded in each fiscal year according to the following priorities:

15           (1) First priority shall be given to projects to address projects identified  
16           by the Secretary under section 1294 of this title as significant contributors to  
17           water quality problems or are in critical need of water quality remediation or  
18           response.

19           (2) Next priority shall be given to proposed projects to address or repair  
20           riparian conditions that increase the risk of flooding or pose a threat to life or  
21           property.

1           (3) Next priority shall be given to proposed projects or programs to  
2           address areas of high risk of pollution or high loading of sediment to a water  
3           listed as impaired on the list of waters required by 33 U.S.C. § 1313(d).

4           (4) Next priority shall be given to other projects implementing a total  
5           maximum daily load plan in a water listed as impaired on the list of waters  
6           required by 33 U.S.C. § 1313(d).

7           (5) Next priority shall be given to projects or programs to address areas  
8           of high risk of pollution or high loading of sediment to an unimpaired water.

9           (c) The Secretary may award financial assistance under this subchapter for  
10          a project or program which otherwise would not receive assistance under the  
11          priorities established by this section when the Secretary determines a severe  
12          risk to water quality or risk of discharge exists which requires immediate  
13          abatement.

14          (d) The Secretary may adopt by rule additional priorities for the award of  
15          loans or grants in order to ensure equity in the distribution of awards under this  
16          section among service sectors or land use categories.

17          § 1297. ANNUAL REPORT

18          On or before January 1, 2014, and annually thereafter, the Secretary shall  
19          report to the House Committee on Fish, Wildlife and Water Resources and the  
20          Senate Committee on Natural Resources and Energy regarding implementation  
21          and administration of the Water Resources Preservation Program. The report  
22          shall:

1           (1) summarize the progress of the Secretary in implementing and  
2           administering the program;

3           (2) provide an accounting of the funds in the Water Resources  
4           Preservation Fund, including the source of the funds;

5           (3) list on a watershed basis the projects or activities funded by the  
6           Water Resources Preservation Program in the preceding year;

7           (4) summarize any data or information identified as needed under  
8           subdivision 1294(b)(1) of this title; and

9           (5) list areas of the State identified under subdivision 1294(b)(2) of this  
10          title that are significant contributors to water quality problems or are in critical  
11          need of water quality remediation or response.

12                           \* \* \* Shoreland Contractor Certification \* \* \*

13          Sec. 14. 10 V.S.A. § 1429 is added to read:

14          § 1429. SHORELAND CONTRACTOR; CERTIFICATION

15          (a) Definitions. As used in this section:

16                 (1) “Impervious surface” shall have the same meaning as in section  
17                 1264 of this title.

18                 (2) “Lake” means a body of standing water, including a pond or a  
19                 reservoir, which may have natural or artificial water level control. Private  
20                 ponds shall not be considered lakes.



1           (3) “Mean water level” means the mean water level of a lake as defined  
2 in the Mean Water Level Rules of the Agency of Natural Resources adopted  
3 under 29 V.S.A. § 410.

4           (4) “Shoreland area” means all land located within 250 feet of the mean  
5 water level of a lake that is greater than 10 acres in surface area.

6           (b) Required certification. Beginning January 1, 2015, a person shall not  
7 disturb soil, clear vegetation, or construct impervious surface of more than 500  
8 square feet in a shoreland area unless a person certified in erosion control  
9 practices by the Secretary is:

10           (1) responsible for management of erosion and sediment control  
11 practices at the site; and

12           (2) present at the site each day earth-moving activity, vegetation  
13 clearing, or the construction of impervious surface occurs for a duration that is  
14 sufficient to ensure that proper erosion and sedimentation control practices are  
15 followed.

16           (c) The requirements of this section apply until:

17           (1) erosion control measures that shall permanently stay in place are  
18 installed at the site; or

19           (2) if the site is to be revegetated, erosion control measures that shall  
20 stay in place until the area is sufficiently covered with vegetation necessary to  
21 prevent soil erosion are installed.

1                                   \* \* \* Forestry Practices \* \* \*

2       Sec. 15. DEPARTMENT OF FOREST, PARKS AND RECREATION;  
3                                   FORESTRY; PORTABLE SKIDDER PROJECT

4           In addition to any other funds appropriated to the Department of Forests,  
5           Parks and Recreation in fiscal year 2015, there is appropriated from the  
6           General Fund to the Department \$75,000.00 in fiscal year 2015 for the purpose  
7           of providing technical assistance to persons engaged in silvicultural practices  
8           regarding improved stream crossing practices, including the rental or financing  
9           of portable skidder bridges.

10                               \* \* \* Town Road and Bridge Standards \* \* \*

11       Sec. 16. 19 V.S.A. § 303 is amended to read:

12       § 303. TOWN HIGHWAY CONTROL; STANDARDS; ENFORCEMENT

13           (a) Town highways shall be under the general supervision and control of  
14           the selectmen of the town where the roads are located. Selectmen shall  
15           supervise all expenditures.

16           (b)(1) Each municipality shall adopt road and bridge standards that include  
17           best management practices to address water quality and that meet or exceed the  
18           minimum requirements of the Agency's recommended town road and bridge  
19           standards.

20           (2) A municipality which fails to adhere to its duly adopted road and  
21           bridge standards and which failure harms or is likely to harm public health,  
22           safety, welfare, or the environment commits a civil violation and shall be

1 subject to a civil penalty of not more than \$5,000.00 per day. Each violation  
2 may be a separate and distinct offense and, in the case of a continuing  
3 violation, each day's continuance may be deemed a separate and distinct  
4 offense. The maximum penalty for a continuing violation shall not exceed  
5 \$25,000.00.

6 (3) A violation of this subsection shall be enforceable under 10 V.S.A.  
7 chapter 201.

8 Sec. 17. 19 V.S.A. § 306 is amended to read:

9 § 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

10 (a) General ~~state~~ State aid to town highways. An annual appropriation to  
11 class 1, 2, and 3 town highways shall be made. This appropriation shall  
12 increase or decrease over the previous year's appropriation by the same  
13 percentage as any increase or decrease in the ~~transportation agency's~~ Agency  
14 of Transportation's total appropriations funded by ~~transportation fund~~  
15 Transportation Fund revenues, excluding the town highway appropriations for  
16 that year. The funds appropriated shall be distributed to towns as follows:

17 (1) six percent of the ~~state's~~ State's annual town highway appropriation  
18 shall be apportioned to class 1 town highways. The apportionment for each  
19 town shall be that town's percentage of class 1 town highways of the total class  
20 1 town highway mileage in the ~~state~~ State;

21 (2) forty-four percent of the ~~state's~~ State's annual town highway  
22 appropriation shall be apportioned to class 2 town highways. The

1 appportionment for each town shall be that town's percentage of class 2 town  
2 highways of the total class 2 town highway mileage in the ~~state~~ State;

3 (3) fifty percent of the ~~state's~~ State's annual town highway  
4 appropriation shall be apportioned to class 3 town highways. The  
5 appportionment for each town shall be that town's percentage of class 3 town  
6 highways of the total class 3 town highway mileage in the ~~state~~ State;

7 (4) ~~moneys~~ monies apportioned under subdivisions (1), (2), and (3) of  
8 this subsection shall be distributed to each town in quarterly payments  
9 beginning July 15 in each year;

10 (5) each town shall use the monies apportioned to it solely for town  
11 highway construction, improvement, and maintenance purposes or as the  
12 nonfederal share for public transit assistance. These funds may also be used  
13 for the establishment and maintenance of bicycle routes. The members of the  
14 selectboard shall be personally liable to the ~~state~~ State, in a civil action brought  
15 by the ~~attorney general~~ Attorney General, for making any unauthorized  
16 expenditures from money apportioned to the town under this section.

17 (6) starting in fiscal year 2015, each town that has not adopted road and  
18 bridge standards as required under section 303 of this title shall forfeit five  
19 percent of the town's total State aid allocation under this subsection. Any  
20 moneys forfeited under this subdivision shall be reallocated to towns that have  
21 adopted road and bridge standards in accordance with subdivisions (1)–(3) of  
22 this subsection, except that the forfeiting towns' class 1, 2, and 3 mileage shall

1 be subtracted from the statewide totals of class 1, 2, and 3 town highway  
2 mileage.

3 \* \* \*

4 Sec. 18. 10 V.S.A. § 8003(a) is amended to read:

5 (a) The ~~secretary~~ Secretary may take action under this chapter to enforce  
6 the following statutes and rules, permits, assurances, or orders implementing  
7 the following statutes:

8 \* \* \*

9 (22) 10 V.S.A. chapter 164A, collection and disposal of  
10 mercury-containing lamps; ~~and~~

11 (23) 24 V.S.A. § 2202a, relating to a municipality's adoption and  
12 implementation of a solid waste implementation plan that is consistent with the  
13 ~~state~~ State solid waste plan; and

14 (24) 19 V.S.A. § 303 (mandatory town road and bridge standards).

15 Sec. 19. 10 V.S.A. § 8503 is amended to read:

16 § 8503. APPLICABILITY

17 (a) This chapter shall govern all appeals of an act or decision of the  
18 ~~secretary~~ Secretary, excluding enforcement actions under chapters 201 and 211  
19 of this title and rulemaking, under the following authorities and under the rules  
20 adopted under those authorities:

21 (1) The following provisions of this title:

22 \* \* \*

1 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

2 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

3 (4) 19 V.S.A. § 303 (mandatory town road and bridge standards).

4 \* \* \*

5 \* \* \* Best Management Practices Income Tax Credit \* \* \*

6 Sec. 20. 32 V.S.A. § 5930mm is added to read:

7 § 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX

8 CREDIT

9 (a) A taxpayer of this State who is engaged in the business of farming or  
10 who is implementing a nutrient management plan approved by the Secretary of  
11 Agriculture, Food and Markets may claim a credit against his or her income  
12 taxes imposed by this chapter in an amount equal to 25 percent of the first  
13 \$70,000.00 expended by the taxpayer for an agricultural best management  
14 practice approved by the Secretary of Agriculture, Food and Markets under  
15 6 V.S.A. chapter 215, provided that that the credit shall not exceed the liability  
16 of the taxpayer under this chapter for the year in which the credit is claimed.

17 (b) Best management practices eligible for the credit under this section  
18 shall include approved activities to:

19 (1) manage the waste from livestock, as that term is defined in 6 V.S.A.  
20 § 761;

21 (2) control soil erosion;

22 (3) nutrient and sediment filtration and detention;

1           (4) nutrient management planning; and

2           (5) pest and pesticide handling.

3           (c) After completion of the best management practice, the Secretary shall  
4           certify the practice as approved and completed, and eligible for credit. The  
5           taxpayer shall forward the certification of completion to the Department of  
6           Taxes on forms provided by the Department. The credit shall be allowed only  
7           for expenditures made by the taxpayer from his or her own funds.

8           (d) The credit under this section shall be available only for the tax year in  
9           which the project was completed, as certified by the Secretary of Agriculture,  
10          Food and Markets. Any taxpayer claiming a credit under this section shall not  
11          claim a credit under any similar State law for costs related to the same eligible  
12          practices.

13          (e) The amount of any credit claimed under this section attributable to  
14          agricultural best management practices by a pass-through entity such as a  
15          partnership, limited liability company, or electing small business corporation  
16          (S Corporation) shall be allocated to the individual partners, members, or  
17          shareholders in proportion to their ownership or interest in such entity.

18          (f) As used in this section, “engaged in the business of farming” means a  
19          taxpayer earns at least one-half of his or her annual gross income from the  
20          business of farming, as that term is defined in the Internal Revenue Code,  
21          26 C.F.R. § 1.175-3.

1                   \* \* \* Excise Taxes; Bottled Water; Flushable Products \* \* \*

2           Sec. 21. 32 V.S.A. chapter 242 is added to read:

3                                   CHAPTER 242. EXCISE TAXES

4           § 10401. EXCISE TAX ON BOTTLED WATER

5           (a) Definitions. As used in this section:

6                   (1) "Bottle" means any closed container of five gallons or less which is  
7                   labeled by a manufacturer of bottled water and used to contain or convey  
8                   bottled water.

9                   (2) "Bottled water" means all water that is sealed in bottles and offered  
10                  for sale for human consumption and includes flavored water, vitamin water,  
11                  and carbonated water.

12                  (3) "Commercial bulk water extractor" means a person, except for  
13                  municipalities as defined in 1 V.S.A. § 126 or a consolidated water district  
14                  established under 24 V.S.A. § 3342, who sells water in bulk to a manufacturer  
15                  for the purpose of filling or refilling a bottle with bottled water.

16                  (4) "Manufacturer" means any processor, bottler, or other person who  
17                  fills or refills a bottle with bottled water and others engaged in purifying,  
18                  filtrating, or any other alteration of water for the purpose of selling or reselling  
19                  bottled water.

20           (b) Imposition of excise tax.

21                  (1) Beginning January 1, 2015, an excise tax is imposed on each  
22                  manufacturer of bottled water who sells bottled water in or into the State. The



1 excise tax is imposed at a rate of five cents per bottle of water sold in or into  
2 the State.

3 (2) Beginning January 1, 2015, an excise tax is imposed on each  
4 commercial bulk water extractor who sells in or into the State water in bulk to  
5 a manufacturer for the purpose of filling or refilling a bottle with bottled water.  
6 The excise tax is imposed at a rate of \$0.01 per gallon sold in or into the State.

7 (c) Collection of excise tax. On or before the 25th day of each month, a  
8 manufacturer of bottled water sold in or into the State or a commercial bulk  
9 water extractor who sells in or into the State water in bulk to a manufacturer  
10 for the purpose of filling or refilling a bottle with bottled water shall:

11 (1) report to the Department of Taxes the number of bottles of bottled  
12 water or the number of gallons of bulk water sold in or into the State during the  
13 preceding month; and

14 (2) pay to the Department of Taxes the tax for each bottle of bottled  
15 water sold by the manufacture or for each gallon of bulk water sold by the  
16 commercial bulk water extractor in or into the State in the preceding month.

17 (d) Deposit of excise tax. The Department of Taxes shall deposit the tax  
18 collected under this section into the Water Resources Preservation Fund  
19 established under 10 V.S.A. § 1295 for use according to the purposes of the  
20 fund.

1       (e) Implementation and rulemaking. The Department of Taxes may adopt  
2 rules, procedures, and forms necessary to implement the requirements of this  
3 section.

4       § 10402. EXCISE TAX ON FLUSHABLE PRODUCTS

5       (a) Definitions. As used in this section:

6           (1) “Flushable product” means an individual package of soap or  
7 detergent, toiletries, toilet tissue, or water softener intended for retail sale in its  
8 packaged form.

9           (2) “Soap or detergent” means:

10           (A) body soap or hand soap in liquid or bar form;

11           (B) cleaning detergents, such as laundry detergents and dishwashing  
12 detergents;

13           (C) toothpaste, tooth gels, and tooth powders; and

14           (D) mouthwash and similar oral rinses.

15           (3) “Toiletries” means a toilet preparation such as a perfume, shaving  
16 preparation, hair preparation, face cream, lotion (including sunscreen), and  
17 other cosmetic preparations within the meaning of North American Industry  
18 Classification System code 325620.

19           (4) “Toilet tissue” means toilet tissue within the meaning of North  
20 American Industry Classification System code 32229153 or 32229154.

1           (5) “Water softener” means a farm, household, commercial, or industrial  
2 water softener within the meaning of North American Industry Classification  
3 System codes 333319A116 and 333319A111.

4           (b) Imposition of excise tax. Beginning January 1, 2015, there is imposed  
5 on the seller of a flushable product an excise tax of \$0.10 for each flushable  
6 product sold by the seller at wholesale in or into the State.

7           (c) Collection of excise tax. On or before the 25th day of each month, a  
8 seller of a flushable product sold at wholesale in the State shall:

9           (1) report to the Department of Taxes the number of flushable products  
10 that the seller sold at wholesale in or into the State in the preceding month; and

11           (2) pay to the Department of Taxes the tax for each flushable product  
12 sold by the seller at wholesale in or into the State in the preceding month;

13           (d) The Department of Taxes shall deposit the tax collected under this  
14 section into the Water Resources Preservation Fund established under  
15 10 V.S.A. § 1295 for use according to the purposes of the fund.

16           (e) Implementation and rulemaking. The Department of Taxes may adopt  
17 rules, procedures, and forms necessary to implement the requirements of this  
18 section.

19       Sec. 22. EFFECTIVE DATES

20           (a) This section and Secs. 1–2 (small farm certification), 3–5 (livestock  
21 exclusion), 6 (seasonal application of manure), 8 (custom applicator  
22 certification), 11 (stream alteration), 12 (stormwater permitting; model bylaw),

1 13 (Water Resources Preservation Program), 14 (shoreland contractor  
2 certification), 15 (financing; technical assistance for forestry), 20 (agricultural  
3 best management practices tax credit), and 21 (bottled water excise tax and  
4 flushable products excise tax) shall take effect on passage.

5 (b) Sec. 7 (agricultural water quality certification) shall take effect on  
6 January 1, 2015.

7 (c) Secs. 9–10 (right-of-way pesticide permits) and 16–19 (town road and  
8 bridge standards) shall take effect on July 1, 2015.