

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 reeding 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).

§ 4972. LIVESTOCK EXCLUSION

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

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

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

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

§ 4973. ENFORCEMENT; INCORPORATION INTO EXISTING PERMIT

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

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

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

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

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

§ 4824a. STATE FINANCIAL ASSISTANCE; LIVESTOCK EXCLUSION

(a) Notwithstanding the priorities for state financial assistance under section 4823 of this title, construction of fencing in order to comply with the 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:

(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 * * *

~~*** Water Resources Preservation Program ***~~

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

Subchapter 1A. Water Resources Preservation Program

§ 1291. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

§ 1292. WATER RESOURCES PRESERVATION PROGRAM;

ESTABLISHMENT

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

*** Forestry Practices ***

1
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 ~~apportionment 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 ~~apportionment 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.~~

~~*** Excise Taxes, Bottled Water, Flushable Products ***~~

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

CHAPTER 242. EXCISE TAXES

§ 10401. EXCISE TAX ON BOTTLED WATER

(a) Definitions. As used in this section:

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

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

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

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

(b) Imposition of excise tax.

(1) Beginning January 1, 2015, an excise tax is imposed on each 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.

** * * Findings; Agricultural Water Quality * * **

Sec. 1. FINDINGS AND PURPOSE; AGRICULTURAL WATER QUALITY

(a) Findings. For the purpose of Secs. 1–9b of this act, the General Assembly finds that:

(1) Significant State, federal, and private financial resources have been expended over the past 20 years to address water quality issues in the State of Vermont, such as the cleanup of Lake Champlain.

(2) Despite significant funding and efforts to address the State's water quality issues, insufficient progress has been made.

(3) The U.S. Environmental Protection Agency (EPA) revoked approval of the initial total maximum daily load (TMDL) plan for Lake Champlain despite the State's reaching one-third of the TMDL's goal in less than 10 years.

(4) EPA is in the process of developing a new TMDL for Lake Champlain, but Vermont may be responsible for the large majority of implementation costs.

(5) Much of the responsibility and cost for meeting the new EPA TMDL may fall on Vermont's farmers, who likely will be subject to additional requirements under the accepted agricultural practices (AAPs) and other agricultural water quality rules.

(6) Although the AAP rules were adopted in 1995, there is a general lack of awareness in the "small farm" community about the AAPs, and the Agency of Agriculture, Food and Markets should educate small farm operators in the State concerning the requirements of the AAPs.

(7) The Vermont agricultural community recognizes that it has a role to play in the future efforts to reduce nutrient loading and improve water quality in the State, but additional State and federal assistance is necessary to fulfill this role successfully, including technical and financial assistance to encourage small farms to adopt and implement nutrient management plans.

(b) Purpose. It is the purpose of Secs. 1–9b of this act to:

(1) improve the quality of the waters of Vermont;

(2) authorize proactive measures designed to implement and ultimately meet the impending TMDL for Lake Champlain and improve water quality across the State;

(3) identify cost-effective strategies for the agricultural community to address water quality issues, including best management practices and conservation practices of cover cropping, grassed waterways, manure drag lines and injection, no-till production, and contour plowing; and

(4) engage more agricultural operations in meaningful ways as part of the State's efforts to improve the quality of the waters of Vermont.

** * * Agricultural Water Quality;*

*Small Farm Certification and Inspection * * **

Sec. 2. 6 V.S.A. § 4858a is added to read:

§ 4858a. SMALL FARM CERTIFICATION

(a) Rulemaking; small farm certification. The Secretary of Agriculture, Food and Markets shall adopt by rule a requirement that all small farms in the State submit to the Secretary a certification of compliance with the accepted agricultural practices. The rules required by this subsection shall be adopted as part of the accepted agricultural practices under section 4810 of this title.

(b) Content of rules. The rules for small farm certification shall:

(1) Define what constitutes a small farm for the purposes of certification.

(2) Require a small farm to be certified under this section in order to operate in the State.

(3) Require the owner or operator of a small farm to certify to the Secretary of Agriculture, Food and Markets at least every five years that the

owner or operator complies with the accepted agricultural practices adopted under section 4810 of this title. The certification shall identify the farm subject to the certification and the person or persons who own or operate the farm. The owner or operator of the farm shall certify compliance with the accepted agricultural practices, including that:

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

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

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

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

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

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

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

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

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

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

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

(4) Authorize the Secretary to visit small farms in the State for the purposes of assessing compliance with the accepted agricultural practices and consistency with a certification issued under this section. The Secretary may

prioritize visits to small farms in the State based on identified water quality issues posed by a farm.

(5) Require notice to the Secretary of a change of ownership or a change of operator of a small farm and the time frame by which a new owner or operator shall be required to certify compliance with the accepted agricultural practices under this section.

(c)(1) Identification; ranking of water quality needs. During a visit to a small farm required under subsection (b) of this section, the Secretary shall identify areas where the farm could benefit from capital, structural, or technical assistance in order to improve or come into compliance with the accepted agricultural practices.

(2) Annually, the Secretary shall establish a priority ranking system for small farms according to the degree of assistance required for compliance with the accepted agricultural practices if the identified capital, structural, or technical needs on the farm are not addressed.

(3) Notwithstanding the requirements of section 4823 of this title, farms identified under subdivision (2) of this subsection in the greatest level of need in order to come into compliance with the accepted agricultural practices shall be given first priority for State financial assistance under subchapter 3 of this chapter, provided that the Secretary may give first priority for financial assistance to any farm other than one identified under subdivision (2) of this

subsection when the Secretary determines that a farm needs assistance to address a water quality issue that requires immediate abatement.

Sec. 3. 6 V.S.A. § 4860 is amended to read:

§ 4860. REVOCATION; ENFORCEMENT

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

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

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

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

Sec. 4. 6 V.S.A. § 4810 is amended to read:

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, and shall implement and enforce agricultural land use practices in order to reduce the amount of agricultural pollutants entering the waters of the ~~state~~ State. These agricultural land use practices shall be created in two categories, pursuant to subdivisions (1) and (2) of this subsection.

(1) “Accepted Agricultural Practices” (AAPs) shall be standards to be followed in conducting agricultural activities in this ~~state~~ State. These standards shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the ~~state~~ State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities. The AAPs shall include, as well as promote and encourage, practices for farmers in preventing pollutants from entering the groundwater and waters of the ~~state~~ State when engaged in, ~~but not limited to~~, animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. Persons engaged in farming, as defined in 10 V.S.A. § 6001, who follow these practices shall be presumed to be in compliance with water quality standards. AAPs shall be practical and cost effective to implement. The AAPs for groundwater shall include a process under which the ~~agency~~ Agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner.

(2) “Best Management Practices” (BMPs) may be required by the ~~secretary~~ Secretary on a ~~ease-by-ease~~ case-by-case basis. Before requiring BMPs, the ~~secretary~~ Secretary shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable BMPs. BMPs shall be practical and cost effective to implement.

(b) Cooperation and coordination. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall develop a memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing, and how they will coordinate watershed planning activities to comply with Public Law 92-500. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources shall also develop a memorandum of understanding according to the public notice and comment process of 10 V.S.A. § 1259(i) regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the ~~state~~ State agricultural water quality requirements for large, medium, and small farms under chapter 215 of this title. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with

the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall be consistent with the ~~secretary's~~ Secretary's duties, established under the provisions of 10 V.S.A. § 1258(b), to comply with Public Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural Resources shall be the ~~state~~ State lead person in applying for federal funds under Public Law 92-500, but shall consult with the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from federal funds. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be represented in reviewing these projects for funding. Actions by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the federal Clean Water Act as amended. In addition, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and

enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm.

(c) The Secretary of Agriculture, Food and Markets shall amend by rule the accepted agricultural practices required under this section to include requirements for the certification of small farms under section 4858a of this title. The rules adopted under this section shall be at least as stringent as the requirements of section 4858a of this title.

** * * Agricultural Water Quality; Corrective Actions * * **

Sec. 5. 6 V.S.A. § 4812 is amended to read:

§ 4812. CORRECTIVE ACTIONS

(a) When the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that a person engaged in farming is managing a farm using practices which are inconsistent with the ~~practices defined by requirements of this chapter or rules adopted~~ practices defined by requirements of this chapter or rules adopted under this subchapter, the ~~secretary~~ Secretary may issue a written warning which shall be served in person or by certified mail, return receipt requested. The warning shall include a brief description of the alleged violation, identification of this statute and applicable rules, a recommendation for corrective actions that may be taken by the person, along with a summary of federal and state assistance programs which may be utilized by the person to remedy the violation ~~and a request for an abatement schedule from the person according to which the~~

~~practice shall be altered.~~ The person shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation. If the person fails to respond to the written warning within this period or to take corrective action to change the practices ~~in order to protect water quality,~~ the ~~secretary~~ Secretary may act pursuant to subsection (b) of this section in order to protect water quality.

(b) ~~After an opportunity for a hearing, the secretary~~ The Secretary may:

(1) issue cease and desist orders and administrative penalties in accordance with the requirements of sections 15, 16, and 17 of this title; and

(2) institute appropriate proceedings on behalf of the ~~agency~~ Agency to enforce this subchapter.

(c) Whenever the ~~secretary~~ Secretary believes that any person engaged in farming is in violation of this subchapter or rules adopted thereunder, an action may be brought in the name of the ~~agency~~ Agency in a court of competent jurisdiction to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions, and other relief as may be necessary and appropriate to curtail any violations.

(d) ~~The secretary may assess administrative penalties in accordance with sections 15, 16, and 17 of this title against any farmer who violates a cease~~

~~and desist order or other order issued under subsection (b) of this section.~~

[Repealed.]

~~(e) Any person subject to an enforcement order or an administrative penalty who is aggrieved by the final decision of the ~~secretary~~ Secretary may appeal to the ~~superior court~~ Superior Court within 30 days of the decision. The administrative judge may specially assign an ~~environmental~~ Environmental judge to ~~superior court~~ Superior Court for the purpose of hearing an appeal.~~

~~*** Agricultural Water Quality; Livestock Exclusion ***~~

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

Subchapter 8. Livestock Exclusion

§ 4971. DEFINITIONS

As used in this subchapter:

(1) "Livestock" means cattle, sheep, goats, equines, fallow deer, red deer, American bison, swine, water buffalo, poultry, pheasant, Chukar partridge, Coturnix quail, camelids, ratites, and, as necessary, other animals designated by the Secretary by rule.

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

§ 4972. PURPOSE

The purpose of this subchapter is to authorize the Secretary of Agriculture, Food and Markets to require exclusion of livestock from a water of the State

where continued access to the water by livestock poses a high risk of violating the accepted agricultural practices.

§ 4973. LIVESTOCK EXCLUSION; PERMIT CONDITION

As a condition of a small farm certification, an animal waste permit, or a large farm permit issued under this chapter, the Secretary of Agriculture, Food and Markets may require exclusion of livestock from a water of the State where continued access to the water by livestock poses a high risk of violating the accepted agricultural practices.

** * * Seasonal Exemption for Manure Application * * **

Sec. 7. 6 V.S.A. § 4816 is added to read:

§ 4816. SEASONAL APPLICATION OF MANURE

(a) Unless authorized under subsection (b) of this section, a person shall not apply manure to land in the State:

(1) between December 15 and April 1 of any calendar year; or

(2) between December 1 and December 15 and between April 1 and April 30 of any calendar year when prohibited under subsection (c) of this section.

(b) Seasonal exemption.

(1) The Secretary of Agriculture, Food and Market may authorize an exemption to the prohibition on the application of manure to land in the State between December 15 and April 1 of any calendar year or during any period established under subsection (c) of this section when manure is prohibited

from application. An exemption issued under this section may authorize land application of manure on a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in the State, provided that the requirements of subdivision (2) of this subsection are complied with.

(2) Any exemption issued under this subsection shall:

(A) prohibit application of manure:

(i) in areas with established channels of concentrated stormwater runoff to surface waters, including ditches and ravines;

(ii) in nonharvested permanent vegetative buffers;

(iii) in a nonfarmed wetland, as that term is defined in 10 V.S.A. § 902(5);

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

(v) to fields exceeding tolerable soil loss; and

(vi) to saturated soils;

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

(C) require manure to be applied according to a nutrient management plan; and

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

(c) Restriction on application. The Secretary of Agriculture, Food and Markets may by procedure prohibit the application of manure to land in the State between December 1 and December 15 and April 1 and April 30 of any calendar year when the Secretary determines that due to weather conditions, soil conditions, or other limitations, application of manure to land would pose a significant potential of discharge or runoff to State waters.

* * * Agricultural Water Quality; Training * * *

Sec. 8. 6 V.S.A. chapter 215, subchapter 9 is added to read:

Subchapter 9. Agricultural Water Quality Certification Training

§ 4981. AGRICULTURAL WATER QUALITY CERTIFICATION
TRAINING; RULEMAKING

(a) The Secretary of Agriculture, Food and Markets shall adopt by procedure requirements for training classes or programs for owners or operators of small farms, medium farms, or large farms certified or permitted under this chapter regarding:

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

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

(b) Any training required by procedure under this section shall:

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

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

** * * Agricultural Water Quality;*

*Certification of Custom Applicators * * **

Sec. 9. 6 V.S.A. chapter 215, subchapter 10 is added to read:

Subchapter 10. Certification of Custom Applicators of Manure,

Nutrients, or Sludge

§ 4987. DEFINITIONS

As used in this subchapter:

(1) "Custom applicator" means a person who applies manure, nutrients, or sludge to land and who charges or collects other consideration for the service.

(2) "Manure" means livestock waste that may also contain bedding, spilled feed, water, or soil.

(3) "Seasonal employee" means a person who:

(A) works for a custom applicator for 20 weeks or fewer in a calendar year; and

(B) works in a job scheduled to last 20 weeks or fewer.

(4) "Sludge" means any solid, semisolid, or liquid generated from a municipal, commercial, or industrial wastewater treatment plant or process,

water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects.

§ 4988. CERTIFICATION OF CUSTOM APPLICATOR

(a) The Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete eight hours of training over each five-year period regarding:

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

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

(b) A custom applicator shall not apply manure, nutrients, or sludge unless certified by the Secretary of Agriculture, Food and Markets.

(c) A custom applicator certified under this section may train seasonal employees in methods or techniques to minimize runoff to surface waters and to identify weather or soil conditions that increase the risk of runoff. A custom applicator that trains a seasonal employee under this subsection shall be liable for damages done and liabilities incurred by a seasonal employee who improperly applies manure, nutrients, or sludge.

(d) The requirements of this section shall not apply to an owner or operator of a farm applying manure, nutrients, or sludge to a field that he or she owns or controls.

**** Agricultural Stream Alteration ****

Sec. 9a. 6 V.S.A. § 4810a is added to read:

§ 4810a. AGRICULTURAL ACTIVITIES; STREAMS

(a) As used in this section:

(1) “Instream material” means:

(A) all gradations of sediment from silt to boulders;

(B) ledge rock; or

(C) large woody debris in the bed of a perennial stream or within the banks of a perennial stream.

(2) “Intermittent stream” means any stream or stream segment of significant length that is not a perennial stream.

(3) “Large woody debris” means any piece of wood within a perennial stream with a diameter of 10 or more inches and a length of 10 or more feet that is detached from the soil where it grew.

(4) “Perennial stream” means a stream or portion, segment, or reach of a stream, generally exceeding 0.5 square miles in watershed size, in which surface flows are not frequently or consistently interrupted during normal seasonal low flow periods. Perennial streams that begin flowing subsurface during low flow periods, due to natural geologic conditions, remain defined as perennial. “Perennial stream” shall not mean standing waters in wetlands, lakes, and ponds.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

(6) "Stream" means a current of water that flows at any time at a rate of less than 1.5 cubic feet per second and exhibits evidence of sediment transport. A stream shall include the full length and width, including the bed and banks of any watercourse, including rivers, streams, creeks, brooks, and branches, which experience perennial flow. "Stream" shall not include swales, roadside ditches, or ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private infrastructure.

(b) The Secretary shall amend the accepted agricultural practices to include requirements for agricultural activities that alter or impact streams in the State. The accepted agricultural practices for stream activities shall:

(1) prohibit the discharge or deposit of manure, milk house waste, compost, or other waste in a stream; and

(2) require authorization from the Secretary, prior to any change, alteration, or modification of the course, current, or cross section of a perennial stream in this State either by movement, fill, or excavation of 10 cubic yards or more of instream material in any year.

(c) The Secretary shall authorize an agricultural activity that alters or impacts streams in the State if the activity:

(1) will not adversely affect the public safety by increasing flood or fluvial erosion hazards;

(2) will not significantly damage fish life or wildlife;

(3) will not significantly damage the rights of riparian owners; and
(4) in case of any waters designated as outstanding resource waters,
will not adversely affect the values sought to be protected by designation.

(d) Prior to issuing an authorization under subdivision (b)(2) of this
section, the Secretary shall consult with the Secretary of Natural Resources
regarding appropriate management measures to be used in conducting any
authorized activity.

Sec. 9b. [Deleted]

** * * Stormwater Management * * **

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

§ 1264. *STORMWATER MANAGEMENT*

** * **

(b) The ~~secretary~~ Secretary shall prepare a plan for the management of collected stormwater runoff found by the ~~secretary~~ Secretary to be deleterious to receiving waters. The plan shall recognize that the runoff of stormwater is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows and natural degradation of the receiving water quality at the time of discharge. The plan shall be cost effective and designed to minimize any adverse impact of stormwater runoff to waters of the ~~state~~ State. By no later than February 1, 2001, the ~~secretary~~ Secretary shall prepare an enhanced stormwater

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

* * *

(12) Encourage municipal governments to utilize existing regulatory and planning authority to implement improved stormwater management by providing technical assistance, training, research and coordination with respect to stormwater management technology, and by preparing and distributing a model local stormwater management ordinance or bylaw. The Secretary annually shall provide municipalities with outreach and education through published materials or training courses regarding the environmental and municipal benefits of adoption of a local stormwater management ordinance or bylaw. The stream alteration training and education activities required under subsection 1023(d) of this title and any education and outreach

conducted under this subdivision (12) shall inform municipalities of model stormwater management ordinances or bylaws that are available in the State.

* * *

* * * *Water Quality Data Coordination* * * *

Sec. 11. 10 V.S.A. § 1284 is added to read:

§ 1284. WATER QUALITY DATA COORDINATION

(a) To facilitate attainment or accomplishment of the purposes of this chapter, the Secretary shall coordinate and assess all available data and science regarding the quality of the waters of the State, including:

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

(2) stream gauge data;

(3) stream mapping, including fluvial erosion hazard maps;

(4) water quality monitoring or sampling data;

(5) cumulative stressors on watershed, such as the frequency an activity is conducted within a watershed or the number of stormwater or other permits issued in a watershed; and

(6) any other data available to the Secretary.

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

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

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

(c) The Secretary shall post all data compiled under this section on the website of the Agency of Natural Resources.

** * * Shoreland Contractor Certification * * **

Sec. 12. VOLUNTARY SHORELAND EROSION CONTROL
CERTIFICATION PROGRAM

(a) Definitions. As used in this section:

(1) "Impervious surface" shall have the same meaning as in 10 V.S.A. § 1264.

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

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

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

(b) Voluntary certification. The Agency of Natural Resources, in consultation with the Associated General Contractors of Vermont, shall develop an optional shoreland erosion control certification program. The

program shall include training related to the disturbance of soil, clearance of vegetation, and construction of impervious surfaces of more than 1,000 square feet in a shoreland area. The voluntary certification program shall end after three years of operation.

(c) Report. After two years of operation of the certification program, the Agency of Natural Resources shall report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources regarding the voluntary shoreland erosion control certification program created in subsection (b) of this section. The report shall include:

(1) a general summary of the program's success, including an overview of shoreland projects constructed by certified persons;

(2) the number of persons certified under the certification program;

(3) a recommendation of whether the State should continue the voluntary certification program, including whether to make the program mandatory; and

(4) any other recommendations for improving the program.

(d) The requirements of this section shall not apply to the owner or operator of a farm conducting agricultural activities on the farm that comply with the rules adopted by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215, regarding agricultural water quality, including accepted agricultural practices, best management practices, animal waste

permits, and large farm permits. The requirements of this section shall apply to a person, other than an employee of the owner or operator of the farm, who charges for the service of tillage, harvesting, or other agricultural activity that disturbs soil, clears vegetation, or constructs impervious surface of more than 500 square feet in a shoreland area.

Sec. 13. [Deleted]

Sec. 14. [Deleted]

Sec. 15. [Deleted]

** * * Water Quality Restoration; Financing Report * * **

Sec. 16. *AGENCY OF NATURAL RESOURCES REPORT ON WATER
QUALITY FINANCING*

On or before January 15, 2015, the Secretary of Natural Resources, after consultation with the Joint Fiscal Office, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation, shall submit to the Senate and House Committees on Natural Resources and Energy, the House Committee on Fish, Wildlife and Water Resources, the House Committee on Ways and Means, the Senate Committee on Finance, and the Senate and House Committees on Appropriations a report that provides recommendations for establishing financing mechanisms for the requirements of this act and other State actions to improve the quality of State waters. The report shall include:

(1) a summary of the anticipated costs for each agency to implement the requirements of this act;

(2) a summary and analysis of existing State tax expenditures that affect State water quality;

(3) a recommendation for a financing mechanism that assesses property owners in the State based on the property's impact on water quality;

(4) at least two alternative financing mechanisms in addition to the recommendation under subdivision (3) of this section, which may include a recommendation for an excise tax;

(5) a summary of how each recommended financing mechanism would be implemented, including administration and enforcement; and

(6) an estimated amount of revenue that each recommended financing proposal would generate.

Sec. 17. [Deleted]

Sec. 18. [Deleted]

Sec. 19. [Deleted]

Sec. 20. [Deleted]

Sec. 21. [Deleted]

Sec. 22. [Deleted]

Sec. 23. [Deleted]

Sec. 24. EFFECTIVE DATES

(a) This section and Sec. 13 (water quality restoration financing report) shall take effect on passage.

(b) Secs. 1 (agricultural findings), 2–4 (small farm certification rules), 5 (Agency of Agriculture, Food and Markets corrective action), 6 (livestock exclusion), 7 (seasonal exemption for application of manure), 8 (agricultural water quality certification), 9 (custom applicator certification), 9a (agricultural stream alteration), 10 (stormwater model bylaw), 11 (water quality data coordination), and 12 (shoreland contractor certification) shall take effect one year after the General Assembly appropriates or otherwise generates funding sufficient to fund the requirements of this act.