

House Calendar

Wednesday, April 16, 2014

100th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Favorable with Amendment

H. 586

An act relating to improving the quality of State waters

Rep. Deen of Westminster, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Agricultural Water Quality;

Small Farm Certification and Inspection * * *

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

§ 4858a. SMALL FARM CERTIFICATION

(a) Rulemaking; small farm certification. On or before January 1, 2016, 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 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) Require the Secretary to visit small farms in the State for purposes of assessing compliance with the accepted agricultural practices and for 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.

(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. 2. 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. 3. 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) On or before January 1, 2016, 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. 4. 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. 5. 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. 6. 6 V.S.A. § 4816 is added to read:

§ 4816. SEASONAL APPLICATION OF MANURE

(a) A person shall not apply manure to land in the State:

(1) between December 15 and April 1 of any calendar year, unless authorized under subsection (b) of this section; 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. 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 water, 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. 7. 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) On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall adopt by rule 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 of stormwater runoff, as that term is defined in 10 V.S.A. § 1264, from farms.

(b) Any training required by rules 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. 8. 6 V.S.A. chapter 215, subchapter 10 is added to read:

Subchapter 10. Certification of Custom Manure Applicators

§ 4987. DEFINITIONS

As used in this subchapter:

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

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

(3) “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 MANURE APPLICATOR

(a) On or before January 1, 2015, the Secretary of Agriculture, Food and Markets shall adopt by procedure 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 16 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) Beginning January 1, 2016, a custom applicator shall not apply manure, nutrients, or sludge unless certified by the Secretary of Agriculture, Food and Markets.

* * * Agricultural Stream Alteration * * *

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

§ 4810a. AGRICULTURAL ACTIVITIES; STREAMS

(a) As used in this section:

(1) “Berm” means a linear fill of earthen material on or adjacent to the bank of a watercourse that constrains waters from entering a flood hazard area or river corridor, as those terms are defined in 10 V.S.A. §§ 752(3) and (11).

(2) “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 watercourse or within the banks of a watercourse.

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

(4) “Large woody debris” means any piece of wood within a watercourse 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.

(5) “Perennial stream” means a watercourse or portion, segment, or reach of a watercourse, 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.

(6) "Secretary" means the Secretary of Agriculture, Food and Markets.

(7) "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, ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private infrastructure, excepting such ditches or conveyances that are connected directly with a stream or river at either end.

(b) On or before January 1, 2016, 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 discarded substances in a stream or a ditch or ravine that are connected to a stream;

(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; and

(3) require authorization from the Secretary to establish or construct a berm in a flood hazard area or river corridor, as those terms are defined in 10 V.S.A. § 752(3) and (11).

(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 subdivisions (b)(2) and (3) 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.

* * * 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. Beginning on July 1, 2014, 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 section 1264 of this title.

(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 to begin on January 1, 2015. 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 on January 1, 2018.

(c) Report. On or before January 1, 2017, 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.

* * * Forestry Practices * * *

Sec. 13. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
FORESTRY; PORTABLE SKIDDER PROJECT

In addition to any other funds appropriated to the Department of Forests, Parks and Recreation in fiscal year 2015 there is appropriated in fiscal year 2015 from the General Fund to the Department:

(1) \$100,000.00 for the purpose of providing technical assistance to persons engaged in silvicultural practices regarding improved stream crossing practices; and

(2) \$20,000.00 for the purchase or construction of portable skidder bridges.

* * * Town Road and Bridge Standards * * *

Sec. 14. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover ~~40~~ five percent of the project costs. The ~~secretary~~ Secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the ~~secretary~~ Secretary, in which event the local match shall be sufficient to cover ~~20~~ 15 percent of the project costs. The ~~secretary~~ Secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of \$175,000.00.

* * *

* * * Best Management Practices Income Tax Credit * * *

Sec. 15. 32 V.S.A. § 5930mm is added to read:

§ 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT

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

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

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

(2) control soil erosion;

(3) nutrient and sediment filtration and detention;

(4) nutrient management planning; and

(5) pest and pesticide handling.

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

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

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

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

* * * 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, shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Fish, Wildlife and Water Resources, and the Senate and House Committees on Appropriations a report that provides recommendations for establishing a financing mechanism that assesses property owners in the State based on the property's impact on water quality. The report shall include:

- (1) at least two alternative financing mechanisms;
- (2) a summary of how each recommended financing mechanism would be implemented, including administration and enforcement; and
- (3) an estimated amount of revenue that each recommended financing proposal would generate.

* * * Rooms and Meals Tax; Ecosystem Restoration Program * * *

Sec. 17. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine and one-quarter percent of the rent of each occupancy.

(b) An operator shall collect a tax on the sale of each taxable meal at the rate of nine and one-quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with ~~the following~~ a formula developed and published by the Department of Taxes:

\$0.01-0.11	\$0.01
0.12-0.22	0.02
0.23-0.33	0.03
0.34-0.44	0.04
0.45-0.55	0.05
0.56-0.66	0.06
0.67-0.77	0.07
0.78-0.88	0.08
0.89-1.00	0.09

(c) An operator shall collect a tax on each sale of alcoholic beverages at the rate of 10 and one-quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with ~~the following~~ a formula developed and published by the Department of Taxes:

\$.01-.14	\$.01
.15-.24	.02
.25-.34	.03
.35-.44	.04
.45-.54	.05
.55-.64	.06
.65-.74	.07
.75-.84	.08
.85-.94	.09
.95-1.00	.10

Sec. 18. 32 V.S.A. § 9242(c) is amended to read:

(c) A tax of nine and one-quarter percent of the gross receipts from ~~meals and occupancies, nine and one-quarter percent of the gross receipts from meals,~~ and 10 and one-quarter percent of the gross receipts from alcoholic beverages, exclusive of taxes collected pursuant to section 9241 of this title, received from occupancy rentals, taxable meals and alcoholic beverages by an operator, is hereby levied and imposed and shall be paid to the State by the operator as herein provided. Every person required to file a return under this chapter shall, at the time of filing the return, pay the Commissioner the taxes imposed by this chapter as well as all other monies collected by him or her under this chapter; provided, however, that every person who collects the taxes on taxable meals and alcoholic beverages according to the tax bracket schedules of section 9241 of this title shall be allowed to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter as compensation for the keeping of prescribed records and the proper account and remitting of taxes.

Sec. 19. 32 V.S.A. § 435 is amended to read:

§ 435. GENERAL FUND

(a) There is established a General Fund which shall be the basic operating fund of the State. The General Fund shall be used to finance all expenditures

for which no special revenues have otherwise been provided by law.

(b) The General Fund shall be composed of revenues from the following sources:

- (1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;
- (2) [Repealed.]
- (3) Electrical energy tax levied pursuant to chapter 213 of this title;
- (4) Corporate income and franchise taxes levied pursuant to chapter 151 of this title;
- (5) Individual income taxes levied pursuant to chapter 151 of this title;
- (6) All corporation taxes levied pursuant to chapter 211 of this title;
- (7) ~~Meals~~ 98 percent of the meals and rooms taxes levied pursuant to chapter 225 of this title;
- (8) [Repealed.]
- (9) Revenues from the Racing Fund consistent with 31 V.S.A. § ~~644~~ 609;
- (10) 33 percent of the revenue from the property transfer taxes levied pursuant to chapter 231 of this title and the revenue from the gains taxes levied each year pursuant to chapter 236 of this title;
- (11) 65 percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;
- (12) All other revenues accruing to the State not otherwise required by law to be deposited in any other designated fund or used for any other designated purpose.

* * * Rental Car Tax * * *

Sec. 20. 32 V.S.A. § 8903(d) is amended to read:

(d) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this State, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the Commissioner. The amount of the tax shall be ~~nine~~ 10 percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this State for use other than short-term rental, such transaction shall be subject to the tax imposed by

subsection (a) of this section.

Sec. 21. 32 V.S.A. § 8912 is amended to read:

§ 8912. ALLOCATION OF FUNDS

The taxes collected under this chapter shall be paid into and accounted for in the Transportation Fund, except that 10 percent of the tax collected under subsection 8903(d) of this title on rental cars shall be paid into the Ecosystem Restoration Program Fund under 10 V.S.A § 1285.

* * * Ecosystem Restoration Program Fund * * *

Sec. 22. 10 V.S.A. § 1285 is added to read:

§ 1285. ECOSYSTEM RESTORATION PROGRAM FUND

(a) Creation of Fund. There is created a special fund in the State Treasury to be known as the “Ecosystem Restoration Program Fund” to be administered and expended by the Secretary to fund administration and implementation of the Ecosystem Restoration Program. Within the Fund, there shall be two accounts: the Capital Account and the Administrative Account.

(b) Deposits to accounts:

(1) Within the Capital Account, there shall be deposited:

(A) appropriations by the General Assembly to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund; and

(B) appropriations by the General Assembly to the Agency of Natural Resources for any other capital construction related to water pollution control.

(2) Within the Administrative Account, there shall be deposited:

(A) two percent of the meals and rooms tax levied pursuant to chapter 225 of this title;

(B) 10 percent of rental car tax under subsection 8903(d) of this title; and

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

(c) Disbursements from the Fund.

(1) The Secretary may authorize disbursement or expenditures from the Capital Account according to the requirements of 24 V.S.A. chapter 120 and the rules adopted thereunder or as authorized by the General Assembly.

(2) The Secretary may authorize disbursement or expenditures from the Administrative Account for administration of, education and outreach related

to, monitoring, and implementation of the activities or projects under the Ecosystem Restoration Program.

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

(e) Awards; priority. Except for grants or loans issues under 24 V.S.A. chapter 120, grants or loans from the Ecosystem Restoration Program shall be awarded in each fiscal year according to the following priorities:

(1) First priority shall be given to projects identified by the Secretary as significant contributors to water quality problems or in critical need of water quality remediation or response.

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

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

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

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

(f) Secretary discretion. The Secretary may award financial assistance under this section for a project or program that otherwise would not receive assistance under the priorities established by this section when the Secretary determines a severe risk to water quality or risk of discharge exists which requires immediate abatement.

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

Sec. 23. REPORT ON ACCEPTED AGRICULTURAL PRACTICES UNDER USE VALUE APPRAISAL

On or before January 15, 2015, the Agency of Agriculture, Food and Markets (AAFM), after consultation with the Department of Forests, Parks and Recreation and the Division of Property Valuation and Review (PVR) at the Department of Taxes, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy,

the House Committee on Ways and Means, the Senate Committee on Finance, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture a report regarding compliance with the accepted agricultural practices (AAPs) issued under 6 V.S.A. chapter 215 as a requirement of eligibility for participation in the use value appraisal program. The report shall include:

(1) A proposed plan for implementing a requirement that an owner of agricultural land certify compliance with the AAPs in order to participate or continue participation in the use value appraisal program. The plan shall include:

(A) how the AAFM or PVR would record certifications of AAP compliance;

(B) how the AAFM or PVR would enforce compliance with the AAPs as a condition of participation in the use value appraisal program; and

(C) an estimate of the number of staff and other resources required by the AAFM or PVR to implement, administer, and enforce the requirement of compliance with AAPs as a condition of participation in the use value appraisal program.

(2) An estimate of how certification of compliance with the AAPs would impact the cost of the use value appraisal program to the State of Vermont, including whether fewer parcels would qualify for enrollment in the program.

Sec. 24. EFFECTIVE DATES

(a) This section and Secs. 1–3 (small farm certification rules), 4 (Agency of Agriculture, Food and Markets corrective action), 5 (livestock exclusion), 6 (seasonal exemption for application of manure), 8 (custom applicator certification), 9 (agricultural stream alteration), 10 (stormwater model bylaw), 11 (water quality data coordination), 12 (shoreland contractor certification), 13 (financing; technical assistance for forestry), 15 (agricultural best management practices tax credit), and 23 (AAP; use value appraisal report) shall take effect on passage.

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

(c) Secs. 14 (town road and bridge standards), 16 (Ecosystem Restoration fee), 17–19 (meals and rooms tax), 20–21 (rental car tax), and 22 (Ecosystem Restoration Program Fund) shall take effect on July 1, 2015.

(Committee Vote: 7-1-1)

Rep. Partridge of Windham, for the Committee on **Agriculture and Forest Products**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources** and when further amended as follows:

First: By striking Secs. 1–9 in their entirety and inserting in lieu thereof the following:

* * * 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. On or before January 1, 2016, 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) On or before January 1, 2016, 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~~ 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) On or before January 1, 2016, 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) On or before January 1, 2015, 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) Beginning January 1, 2016, 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) On or before January 1, 2016, 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. 32 V.S.A. § 5811(21) is amended to read:

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h):

(I) if the taxpayer is ~~aged~~ 70 years of age or older as of the last day of the tax year, or for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (27) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (ii)(I) shall not exceed 40 percent of federal taxable income; provided, however, that a taxpayer ~~aged~~ 70 years of age or older as of the last day of the tax year may elect to subtract his or her adjusted net capital gains pursuant to subdivision (21)(B)(ii)(II) of this section.

(II) for taxpayers ~~aged~~ 70 years of age or older as of the last day of the tax year who so elect and for all other capital gain income, the first \$2,500.00 of adjusted net capital gain income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) financial assistance received from the State under 6 V.S.A. chapter 215 for the purpose of encouraging farmers in the State to invest in infrastructure or practices to improve water quality.

Second: By striking Sec. 15 (best management practices tax credit) in its entirety and inserting in lieu thereof “Sec. 15. [Deleted]”

Third: By striking Sec. 23 (report on use value appraisal program; AAPs) in its entirety and inserting in lieu thereof “Sec. 23. [Deleted]”

Fourth: By striking Sec. 24 in its entirety and inserting in lieu thereof the following:

Sec. 24. EFFECTIVE DATES

(a) This section and 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), 9 (custom applicator certification), 9a (agricultural stream alteration), 10 (stormwater model bylaw), 11 (water quality data coordination), 12 (shoreland contractor certification), 13 (financing; technical assistance for forestry), 15 (agricultural best management practices tax credit), and 23 (AAP; use value appraisal report) shall take effect on passage.

(b) Secs. 8 (agricultural water quality certification) and 9b (income tax exemption; water quality assistance) shall take effect on January 1, 2015.

(c) Secs. 14 (town road and bridge standards), 16 (Ecosystem Restoration fee), 17–19 (meals and rooms tax), 20–21 (rental car tax), and 22 (Ecosystem Restoration Program Fund) shall take effect on July 1, 2015.

(Committee Vote: 10-0-0)

Rep. Ram of Burlington, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources and Agriculture and Forest Products** and when further amended as follows:

First: In Sec. 2, 6 V.S.A. § 4858a, in subsection (a), by striking “On or before January 1, 2016, the” and inserting in lieu thereof The.

Second: In Sec. 4, 6 V.S.A. § 4810, in subsection (c), by striking “On or”

before January 1, 2016, the” and inserting in lieu thereof The.

Third: In Sec. 8, in 6 V.S.A. § 4981, in subsection (a), by striking “On or before January 1, 2016, the” and inserting in lieu thereof The.

Fourth: In Sec. 9, in 6 V.S.A. § 4988, in subsection (a), by striking “On or before January 1, 2015, the” and inserting in lieu thereof The.

Fifth: In Sec. 9, in 6 V.S.A. § 4988, in subsection (b), by striking “Beginning January 1, 2016, a” and inserting in lieu thereof A.

Sixth: In Sec. 9a, 6 V.S.A. § 4810a, in subsection (b), by striking “On or before January 1, 2016, the” and inserting in lieu thereof The.

Seventh: By striking out Sec. 9b (agricultural water quality tax credit) in its entirety and by inserting in lieu thereof Sec. 9b. [Deleted.]

Eighth: In Sec. 10, 10 V.S.A. § 1264, in subdivision (b)(12), in the second sentence, by striking “Beginning on July 1, 2014, the” and inserting in lieu thereof The.

Ninth: In Sec. 12, in subdivision (a)(1), by striking “section 1264 of this title” and inserting in lieu thereof 10 V.S.A. § 1264.

Tenth: In Sec. 12, by striking out subsections (b) and (c) in their entirety and inserting new subsections (b) and (c) to read:

(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.

Eleventh: By striking out Sec. 13 (portable skidder project appropriation) in its entirety and by inserting in lieu thereof Sec. 13. [Deleted.]

Twelfth: By striking out Sec. 14 (town highway match) in its entirety and by inserting in lieu thereof Sec. 14. [Deleted.]

Thirteenth: By striking out Sec. 16 and inserting in lieu thereof a new Sec. 16 to read:

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.

Fourteenth: By striking out Sec. 17 (meals and rooms tax) in its entirety and by inserting in lieu thereof Sec. 17. [Deleted.]

Fifteenth: By striking out Sec. 18 (meals and rooms tax) in its entirety and by inserting in lieu thereof Sec. 18. [Deleted.]

Sixteenth: By striking out Sec. 19 (meals and rooms tax) in its entirety and by inserting in lieu thereof Sec. 19. [Deleted.]

Seventeenth: By striking out Sec. 20 (rental car tax) in its entirety and by inserting in lieu thereof Sec. 20. [Deleted.]

Eighteenth: By striking out Sec. 21 (rental car tax) in its entirety and by inserting in lieu thereof Sec. 21. [Deleted.]

Nineteenth: By striking out Sec. 22 (ecosystem restoration program fund) in its entirety and by inserting in lieu thereof Sec. 22. [Deleted.]

Twentieth: By striking out Sec. 24 in its entirety and inserting in lieu thereof a new Sec. 24 to read:

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.

(Committee Vote: 11-0-0)

Rep. Toll of Danville, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources, Agriculture and Forest Products and Ways and Means**.

(Committee Vote: 9-2-0)

Amendment to be offered by Rep. Helm of Fair Haven to the recommendation of amendment of the Committee on Fish, Wildlife & Water Resources to H. 586

First: By adding a Sec. 23a to read as follows:

Sec. 23a. 10 V.S.A. chapter 84 is added to read:

CHAPTER 84. SHORELAND STANDARDS FOR STATE LANDS

§ 2681. PURPOSE

The purpose of this chapter is to require the Agency of Natural Resources to

upgrade Agency-owned fishing access areas, beaches, roadways, and other property in lake shoreland areas to meet the shoreland standards required for private development in lake shoreland areas.

§ 2682. DEFINITIONS

As used in this chapter:

(1) “Cleared area” means an area where vegetation is permanently removed.

(2) “Expansion” means an increase or addition to existing impervious surface or an increase to existing cleared area.

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

(4) “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.

(5) “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.

(6) “Private pond” means a body of standing water that is a natural water body of not more than 20 acres located on property owned by one person or an artificial water body of any size located on property owned by one person. A “private pond” shall include a reservoir specifically constructed for one of the following purposes: snowmaking storage, golf course irrigation, stormwater management, or fire suppression.

(7) “Protected shoreland area” means the land area located within 250 feet, horizontal distance, of the mean water level of a lake.

(8) “State lands” means land or real property owned or controlled by the Agency of Natural Resources, including State parks, State forests, and State wildlife management areas.

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

(10) “Vegetation” means all live trees, shrubs, and other plants. Vegetation does not mean grass.

§ 2683. CONSERVATION OF SHORELANDS ON STATE LANDS

(a) On or before July 1, 2016, the Agency of Natural Resources shall implement the following management standards within protected shoreland areas on State lands:

(1) All cleared area and impervious surface shall be at least 100 feet from the mean water level, except:

(A) when compliance would be inconsistent and or in conflict with applicable federal requirements for the management of a parcel of land held by the Agency;

(B) boat ramps for fish and wildlife access areas are allowed within 100 feet of the mean water level of a lake, provided that the ramp shall be designed to prevent or reduce runoff of stormwater to a surface water; and

(C) water dependent, public recreational uses of no more than 100 square feet of impervious surface or cleared area may be maintained or established within 100 feet of the mean water level of a lake, provided that impervious surface or cleared area authorized under this subdivision shall not exceed 20 percent of the State lands within the protected shoreland area.

(2) A buffer strip of vegetation that meets the requirements of section 2684 of this title shall be established and preserved within an area of 100 feet from the mean water level of a lake, except that:

(A) a single footpath not to exceed six feet in width is allowed within the vegetated buffer to allow access to the mean water level of a lake; and

(B) impervious surface or cleared area authorized under subdivisions (a)(1)(A) and (B) is allowed in the vegetated buffer.

(3) Impervious surface or cleared area allowed in the protected shoreland area may only be expanded away from the mean water level of a lake.

(4) Any proposed cleared area or impervious surface within a protected shoreland area shall be sited on a slope of less than 20 percent, or the impervious surface or cleared area within the protected shoreland area shall be sited on a stable slope with minimal erosion and minimal negative impacts to water quality, except when compliance would be inconsistent or in conflict with applicable federal requirements for the management of a parcel of land held by the Agency.

(b) The Secretary of Natural Resources shall retrofit all State lands that do not comply with the requirements of subsection (a) of this section unless the Citizens Advisory Committee on the Shorelands of State Lands grants a variance under section 2685 of this title from the requirements of this section.

§ 2684. VEGETATION MANAGEMENT OF LAKE SHORELAND BUFFERS

(a) Within the vegetated buffer strip required under section 2683 of this title, selective cutting of trees is allowed, provided that a well-distributed stand of trees and other natural vegetation is maintained.

(b) A “well-distributed stand of trees adjacent to a lake” shall be defined as maintaining a minimum rating score of 16 in each 25-foot by 25-foot rectangular area in the buffer strip as determined by the following rating system.

<u>(1) Diameter of tree at 4-1/2 feet above ground level (inches)</u>	<u>Points</u>
<u>2-< 4 in.</u>	<u>1</u>
<u>4-< 8 in.</u>	<u>2</u>
<u>8-< 12 in.</u>	<u>4</u>
<u>12 in. or greater</u>	<u>8</u>

(2) The following shall govern in applying this point system:

(A) 25-foot by 25-foot rectangular plots shall be established within a vegetated buffer where a property owner or lessee proposes clearing within the buffer.

(B) Each successive plot must be adjacent to but not overlap a previous plot.

(C) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by rules adopted under this section.

(D) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by rules adopted under this chapter.

(E) Where conditions permit, no more than 50 percent of the points on any 25-foot by 25-foot rectangular area may consist of trees greater than 12 inches in diameter.

(F) No more than 40 percent of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level, may be removed in any 10-year period.

(G) Existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered,

or removed, except to provide for a footpath or other permitted uses.

(H) Pruning of tree branches on the bottom one-third of the tree is allowed.

(c) As used in this section, “other natural vegetation” means retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at four and one-half feet above ground level for each 25-foot by 25-foot rectangle area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been planted or rooted in the plot.

§ 2685. CITIZENS ADVISORY COMMITTEE ON THE SHORELANDS OF STATE LANDS

(a) There is established a Citizens Advisory Committee on the Shorelands of State Lands in order to oversee the Agency of Natural Resources’ compliance with the requirements of section 2683 of this title.

(b) The Citizens Advisory Committee on the Shorelands of State Lands shall consist of 11 members: one senator appointed by the Committee on Committees, one Representative appointed by the Speaker of the House, and nine Vermont citizens, including one recommended by the Commissioner of Forests, Parks and Recreation, who come from a variety of geographic locations in Vermont appointed by the Governor. The Citizens Advisory Committee on the Shorelands of State Lands shall elect a chair by a majority vote of its members. Legislative committee members shall serve two-year terms that coincide with their term of office or until the biennial appointment of successors. Other advisory committee members shall be appointed for three-year terms, except that initial appointments shall be for staggered terms.

(c) The Citizens Advisory Committee on the Shorelands of State Lands Committee:

(1) shall review the actions and progress made by the Agency of Natural Resources in complying with the requirements of section 2683 of this title;

(2) may grant to the Secretary of Natural Resources a variance from the requirements of section 2683 of this title when the requirements of subsection (d) of this section are met; and

(3) 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 compliance by the Agency of Natural Resources with the requirements of section 2682 of this title.

(d)(1) The Citizens Advisory Committee on the Shorelands of State Lands may grant a variance under this section if the Committee finds that:

(A) the impervious surface or cleared area on State lands do not negatively impact the water quality of a lake; and

(B) the Agency of Natural Resources' compliance with the requirements of section 2683 of this title would involve the significant expenditure of State funds without equal or greater benefits to water quality.

(2) No variance shall be granted pursuant to this section except after public notice and an opportunity for a public meeting and until the Citizens Advisory Committee on the Shorelands of State Lands has considered the relative interests of the Agency of Natural Resources and the general public.

§ 2685. ENFORCEMENT; PENALTIES

(a) Any citizen of the State may commence a civil action against the Agency of Natural Resources for alleged violations of section 2683 of this title.

(b) A violation of section 2683 of this title by the Agency of Natural Resources shall be subject to a civil penalty of not less than \$2,000.00 and not more than \$10,000.00 per violation.

Second: In Sec. 24, in subsection (a), by striking out “and” where it appears before “23” and after “(AAP; use value appraisal report)” and before the period by inserting , 23a (shoreland standards for State lands).

Favorable

S. 91

An act relating to privatization of public schools

Rep. Peltz of Woodbury, for the Committee on **Education**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 6-4-1)

(For text see Senate Journal 3/13/2013 and 3/14/2013)

Senate Proposal of Amendment

H. 589

An act relating to hunting, fishing, and trapping

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 5, 10 V.S.A. § 4084(a) by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) establish open seasons; however, rules regarding taking of deer adopted under this subdivision shall, unless there is a scientific reason not to do so, make provision for: a regular rifle hunting season pursuant to section

~~4741 of this title and for of no fewer than 16 consecutive days; an archery season; and a muzzle loader season unless there is a scientific reason not to do so;~~

Second: In Sec. 8, 10 V.S.A. § 4705, by striking out subsection (c) in its entirety and inserting in lieu thereof the following to read:

(c) A person while on or within 25 feet of the traveled portion of a public highway, except a public highway designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person while on or within the traveled portion of public highway designated Class 4 on a town highway map shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a public highway from a sport shooting range, as that term is defined in section 5227 of this title, provided that:

(1) the sport shooting range was established before January 1, 2014; and

(2) the operators of the sport shooting range post signage warning users of the public highway of the potential danger from the sport shooting range.

And in subsection (f), after “means roads” and before “shown on” by inserting , including Class 4 roads,

Third: By striking out Sec. 15 in its entirety and inserting in lieu thereof a new section to be Sec. 15 to read as follows:

* * * Training Hunting Dogs; Raccoon Season * * *

Sec. 15. 10 V.S.A. § 5001 is amended to read:

§ 5001. HUNTING DOGS; FIELD TRAINING

(a) While accompanying the dog, a person may train a hunting dog to hunt and pursue:

(1) ~~Bear~~ bear during the period from June 1 to September 15 and then only from sunrise to sunset;

(2) ~~Rabbits~~ rabbits and game birds during the period from June 1 to the last Saturday in September and then only from sunrise to sunset;

(3) ~~Raccoon~~ raccoon during the period from June 1 ~~to the last Saturday in September at any time of the day or night~~ through any time of day or night on the day before the opening day of raccoon hunting season; and

(4) ~~Bobcat~~ bobcat and fox during the period June 1 to March 15, except

during regular deer season as prescribed in section 4741 of this title.

* * *

Fourth: By inserting a new section to be Sec. 15a to read as follows:

Sec. 15a. 1 V.S.A. § 509 is amended to read:

§ 509. STATE ~~FOSSIL~~ FOSSILS

(a) The state marine fossil shall be the white whale fossilized skeleton at the University of Vermont's Perkins Geology Museum.

(b) The state terrestrial fossil shall be the Mount Holly mammoth tooth and tusk at the Mount Holly Community Historical Museum.

Fifth: By striking out Sec. 3a (JFO report on hunting licenses for disabled veterans) in its entirety and inserting in lieu thereof the following:

Sec. 3a. [Deleted.]

Sixth: By striking out Sec. 10 (conservation registration plates) in its entirety and inserting in lieu thereof the following:

Sec. 10. [Deleted.]

Seventh: By adding a new section to be numbered Sec. 16 to read as follows:

Sec. 16. EFFECTIVE DATES

(a) This section and Secs. 1–2 (landowner exception; captive hunt; definitions), 3 (license for disabled veteran), 8 (shooting from or across highway), and 15 (training hunting dogs; raccoon season) shall take effect on passage.

(b) Secs. 4 (migrating game bird harvest numbers), 11–13 (cultural and ceremonial use of bird feathers), 14 (State Fly-Fishing Fly), and 15a (State Fossils) shall take effect on July 1, 2014.

(c) Secs. 5–7 (deer season rules) shall take effect on January 1, 2015.

(d) Sec. 9 (conservation plates; proceeds) shall take effect 90 days after the Commissioner of Motor Vehicles issues three new conservation registration plates under 23 V.S.A. § 304b for use by the public.

(For text see House Journal February 26, 2014)

Amendment to be offered by Reps. Savage of Swanton and Consejo of Sheldon to H. 589

First: By inserting a Sec. 15b to read:

Sec. 15b. 1 V.S.A. § 518 is added to read:

§ 518. STATE REPTILE

The State Reptile shall be the Painted Turtle.

Second: In Sec. 16, by striking out subsection (b) and inserting in lieu thereof a new subsection (b) to read:

(b) Secs. 4 (migrating game bird harvest numbers), 11–13 (cultural and ceremonial use of bird feathers), 14 (State Fly-Fishing Fly), 15a (State Fossils), and 15b (State Reptile) shall take effect on July 1, 2014.

NOTICE CALENDAR

Favorable

H. 870

An act relating to the merger of the Town of Pittsford and the Pittsford Fire District No. 1

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill ought to pass.

(**Committee Vote: 8-0-3**)

Senate Proposal of Amendment

H. 123

An act relating to Lyme disease and other tick-borne illnesses

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. PURPOSE

The purpose of this act is to ensure that patients have access to treatment for Lyme disease and other tick-borne illnesses in accordance with their needs, the clinical judgment of their physicians, and any of the guidelines referenced in Sec. 3(4) of this act.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. POLICY STATEMENT

A policy statement clearly communicating the following shall be issued by the Vermont State Board of Medical Practice to physicians licensed pursuant to 26 V.S.A. chapter 23 and to physician assistants licensed pursuant to

26 V.S.A. chapter 31; the Vermont Board of Osteopathic Physicians to physicians licensed pursuant to 26 V.S.A. chapter 33; the Office of Professional Regulation to naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81; and the Vermont Board of Nursing to advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28:

(1) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall document the basis for diagnosis of and treatment for Lyme disease, other tick-borne illness, or coinfection in a patient's medical record;

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent regarding the potential inaccuracy of a diagnostic Lyme disease test prior to its administration;

(3) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent in writing prior to administering any proposed long-term treatment for Lyme disease, other tick-borne illness, or coinfection; and

(4) the Board or Office of Professional Regulation shall not pursue disciplinary action against a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control and Prevention, Infectious Diseases Society of America, or International Lyme and Associated Diseases Society for the treatment of a patient's symptoms when the patient is clinically diagnosed with Lyme disease or other tick-borne illness; however, this does not preclude discipline for errors, omissions, or other unprofessional conduct when practicing within such guidelines.

Third: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. REPORT

On or before January 15, 2015 and the Commissioner of Health shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare on the following:

(1) the trends in the spread of Lyme disease and other tick-borne illnesses throughout Vermont, including a description of the surveillance criteria used in evaluating the spread of these diseases; and

(2) the Department of Health's public education initiatives to date regarding the prevention and treatment of Lyme disease and other tick-borne illnesses, including an assessment of each initiative's effectiveness.

And by renumbering the remaining section to be numerically correct.

(For text see House Journal March 11, 2014)

H. 356

An act relating to prohibiting littering in or on the waters of the State

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on lands or waters of the State outside a solid waste management facility certified by the Agency of Natural Resources.

~~(2) It shall be prima facie evidence~~ There shall be a rebuttable presumption that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

~~(2)(3)~~ No person shall burn or cause to be burned in the open or incinerate in any container, furnace, or other device any solid waste without:

(A) first having obtained all necessary permits from the Agency of Natural Resources, the district environmental commission, and the municipality where the burning is to take place; and

(B) complying with all relevant State and local regulations and ordinances.

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than \$500.00. This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the Agency of Natural Resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, ~~it shall be prima facie evidence~~ there shall be a rebuttable presumption that the throwing, placing, or depositing was done by the ~~driver~~ operator of such snowmobile, vessel, or motor vehicle. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or

salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

(c) Roadside cleanup. A person found in violation of this section may be assigned to spend up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property.

~~(d) The Commissioner of Motor Vehicles shall suspend the motor vehicle operator's license or operating privilege of a person found in violation of this section for a period of ten days if the person fails to pay the penalty set forth in subsection (b) of this section. This provision shall not apply if the only evidence of violation is the presumption set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Motor Vehicles of the entry of judgment. [Repealed.]~~

(e) Revocation of hunting, fishing, or trapping license. The Commissioner of Fish and Wildlife shall revoke the privilege of a person found in violation of this section from holding a hunting ~~or, fishing, or trapping license, or both,~~ for a period of one year from the date of the conviction, if the person fails to pay the penalty set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Fish and Wildlife of the entry of judgment.

(f) ~~{Deleted.}~~ [Repealed.]

(g) Amendment of complaint. A person authorized to enforce this section may amend or dismiss a complaint issued by that person by marking the complaint and returning it to the Judicial Bureau. At the hearing, a person authorized to enforce this section may amend or dismiss a complaint issued by that person, subject to the approval of the hearing judge.

(h) ~~{Deleted.}~~ [Repealed.]

(i) Applicability. Enforcement actions taken under this section shall in no way preclude the Agency of Natural Resources, the Attorney General, or an appropriate State prosecutor from initiating other or further enforcement actions under the civil, administrative, or criminal enforcement provisions of 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement under this section is by an environmental enforcement officer employed by the Agency of Natural Resources, enforcement under this section shall preclude other enforcement by the ~~agency~~ Agency for the same offence.

(j) Definitions. As used in this section:

(1) "Motor vehicle" shall have the same meaning as in 23 V.S.A. § 4(21).

(2) “Snowmobile” shall have the same meaning as in 23 V.S.A. § 3801.

(3) “Vessel” means motor boats, boats, kayaks, canoes, sailboats, and all other types of watercraft.

(4) “Waters” shall have the same meaning as in 10 V.S.A. § 1251(13).

Sec. 2. 1 V.S.A. § 377 is added to read:

§ 377. GREEN UP DAY; RIVER GREEN UP MONTH

(a) The first Saturday in the month of May is designated as Green Up Day.

(b) September of each year is designated as River Green Up Month.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(For text see House Journal January 28, 2014)

H. 373

An act relating to updating and reorganizing Title 33

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 112, 15 V.S.A. § 1140(b), in subdivisions (10) and (13), by striking out “Network Against Domestic Violence and Sexual Assault” and inserting in lieu thereof Network Against Domestic and Sexual Violence

Second: In Sec. 135, effective dates, after the following: “§ 4809” by inserting the word shall

(For text see House Journal January 30, 2014)

Information Notice

All requests for House Concurrent Resolutions must be in Michael Chernick's hands by the end of the day on April 22nd. Thank You.