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1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Fish, Wildlife and Water Resources to which was
3 referred House Bill No. 586 entitled “An act relating to improving the quality
4 of State waters” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking all after the enacting clause
6 and inserting in lieu thereof the following:

7 * * * Agricultural Water Quality;

8 Small Farm Certification and Inspection * * *

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

10 § 4858a. SMALL FARM CERTIFICATION

11 (a) Rulemaking: small farm certification. On or before January 1, 2016,
12 the Secretary of Agriculture, Food and Markets shall adopt by rule a
13 requirement that all small farms in the State submit to the Secretary a
14 certification of compliance with the accepted agricultural practices. The rules
15 required by this subsection shall be adopted as part of the accepted agricultural
16 practices under section 4810 of this title.

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

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

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

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1 (3) Require the owner or operator of a small farm to certify to the
2 Secretary of Agriculture, Food and Markets at least every five years that the
3 owner or operator complies with the accepted agricultural practices adopted
4 under section 4810 of this title. The certification shall identify the farm subject
5 to the certification and the person or persons who own or operate the farm.

6 The owner or operator of the farm shall certify compliance with the accepted
7 agricultural practices, including that:

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

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

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

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

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

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

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

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

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

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

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

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1 (4) Require the Secretary to visit small farms in the State for purposes of
2 assessing compliance with the accepted agricultural practices and for
3 consistency with a certification issued under this section. The Secretary may
4 prioritize visits to small farms in the State based on identified water quality
5 issues posed by a farm.

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

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

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

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1 farm needs assistance to address a water quality issue that requires immediate
2 abatement.

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

4 § 4860. REVOCATION; ENFORCEMENT

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

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

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

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

14 Sec. 3. 6 V.S.A. § 4810 is amended to read:

15 § 4810. AUTHORITY; COOPERATION; COORDINATION

16 (a) Agricultural land use practices. In accordance with 10 V.S.A.
17 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.
18 chapter 25 of ~~Title 3~~, and shall implement and enforce agricultural land use
19 practices in order to reduce the amount of agricultural pollutants entering the
20 waters of the ~~state~~ State. These agricultural land use practices shall be created
21 in two categories, pursuant to subdivisions (1) and (2) of this subsection.

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

18 (2) “Best Management Practices” (BMPs) may be required by the
19 ~~secretary~~ Secretary on a ~~case-by-case~~ case-by-case basis. Before requiring
20 BMPs, the ~~secretary~~ Secretary shall determine that sufficient financial

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1 assistance is available to assist farmers in achieving compliance with
2 applicable BMPs. BMPs shall be practical and cost effective to implement.

3 (b) Cooperation and coordination. The ~~secretary of agriculture, food and~~
4 ~~markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the
5 ~~secretary of natural resources~~ Secretary of Natural Resources in implementing
6 and enforcing programs, plans, and practices developed for reducing and
7 eliminating agricultural non-point source pollutants and discharges from
8 concentrated animal feeding operations. The ~~secretary of agriculture, food and~~
9 ~~markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of~~
10 ~~natural resources~~ Secretary of Natural Resources shall develop a memorandum
11 of understanding for the non-point program describing program administration,
12 grant negotiation, grant sharing, and how they will coordinate watershed
13 planning activities to comply with Public Law 92-500. The ~~secretary of~~
14 ~~agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and
15 the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources
16 shall also develop a memorandum of understanding according to the public
17 notice and comment process of 10 V.S.A. § 1259(i) regarding the
18 implementation of the federal concentrated animal feeding operation program
19 and the relationship between the requirements of the federal program and the
20 ~~state~~ State agricultural water quality requirements for large, medium, and small
21 farms under chapter 215 of this title. The memorandum of understanding shall

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1 describe program administration, permit issuance, an appellate process, and
2 enforcement authority and implementation. The memorandum of
3 understanding shall be consistent with the federal National Pollutant Discharge
4 Elimination System permit regulations for discharges from concentrated
5 animal feeding operations. The allocation of duties under this chapter between
6 ~~the secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
7 and Markets and the ~~secretary of natural resources~~ Secretary of Natural
8 Resources shall be consistent with the ~~secretary's~~ Secretary's duties,
9 established under the provisions of 10 V.S.A. § 1258(b), to comply with Public
10 Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural
11 Resources shall be the ~~state~~ State lead person in applying for federal funds
12 under Public Law 92-500, but shall consult with the ~~secretary of agriculture,~~
13 ~~food and markets~~ Secretary of Agriculture, Food and Markets during the
14 process. The agricultural non-point source program may compete with other
15 programs for competitive watershed projects funded from federal funds. The
16 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
17 Markets shall be represented in reviewing these projects for funding. Actions
18 by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
19 Food and Markets under this chapter concerning agricultural non-point source
20 pollution shall be consistent with the water quality standards and water
21 pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the

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1 federal Clean Water Act as amended. In addition, the ~~secretary of agriculture,~~
2 ~~food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate
3 with the ~~secretary of natural resources~~ Secretary of Natural Resources in
4 implementing and enforcing programs, plans, and practices developed for the
5 proper management of composting facilities when those facilities are located
6 on a farm.

7 (c) On or before January 1, 2016, the Secretary of Agriculture, Food and
8 Markets shall amend by rule the accepted agricultural practices required under
9 this section to include requirements for the certification of small farms under
10 section 4858a of this title. The rules adopted under this section shall be at least
11 as stringent as the requirements of section 4858a of this title.

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

13 Sec. 4. 6 V.S.A. § 4812 is amended to read:

14 § 4812. CORRECTIVE ACTIONS

15 (a) When the ~~secretary of agriculture, food and markets~~ Secretary of
16 Agriculture, Food and Markets determines that a person engaged in farming is
17 managing a farm using practices which are inconsistent with the ~~practices~~
18 ~~defined by~~ requirements of this chapter or rules adopted under this subchapter,
19 the ~~secretary~~ Secretary may issue a written warning which shall be served in
20 person or by certified mail, return receipt requested. ~~The warning shall include~~
21 ~~a brief description of the alleged violation, identification of this statute and~~

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1 applicable rules, a recommendation for corrective actions that may be taken by
2 the person, along with a summary of federal and state assistance programs
3 which may be utilized by the person to remedy the violation and a request for
4 an abatement schedule from the person according to which the practice shall be
5 altered. The person shall have 30 days to respond to the written warning and
6 shall provide an abatement schedule for curing the violation and a description
7 of the corrective action to be taken to cure the violation. If the person fails to
8 respond to the written warning within this period or to take corrective action to
9 change the practices ~~in order to protect water quality~~, the ~~secretary~~ Secretary
10 may act pursuant to subsection (b) of this section in order to protect water
11 quality.

12 (b) ~~After an opportunity for a hearing, the secretary~~ The Secretary may:
13 (1) issue cease and desist orders and administrative penalties in
14 accordance with the requirements of sections 15, 16, and 17 of this title; and
15 (2) institute appropriate proceedings on behalf of the agency Agency to
16 enforce this subchapter.

17 (c) Whenever the ~~secretary~~ Secretary believes that any person engaged in
18 farming is in violation of this subchapter or rules adopted thereunder, an action
19 may be brought in the name of the ~~agency~~ Agency in a court of competent
20 jurisdiction to restrain by temporary or permanent injunction the continuation
21 or repetition of the violation. The court may issue temporary or permanent

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1 injunctions, and other relief as may be necessary and appropriate to curtail any
2 violations.

3 (d) ~~The secretary may assess administrative penalties in accordance with~~
4 ~~sections 15, 16, and 17 of this title against any farmer who violates a cease and~~
5 ~~desist order or other order issued under subsection (b) of this section.~~

6 [Repealed.]

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

12 * * * Agricultural Water Quality; Livestock Exclusion * * *

13 Sec. 5. 6 V.S.A. chapter 215, subchapter 8 is added to read:

14 Subchapter 8. Livestock Exclusion

15 § 4971. DEFINITIONS

16 As used in this subchapter:

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

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

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1 § 4972. PURPOSE

2 The purpose of this subchapter is to authorize the Secretary of Agriculture,
3 Food and Markets to require exclusion of livestock from a water of the State
4 where continued access to the water by livestock poses a high risk of violating
5 the accepted agricultural practices.

6 § 4973. LIVESTOCK EXCLUSION; PERMIT CONDITION

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

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

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

14 § 4816. SEASONAL APPLICATION OF MANURE

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

16 (1) between December 15 and April 1 of any calendar year, unless
17 authorized under subsection (b) of this section; or

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

21 (b) Seasonal exemption.

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1 (1) The Secretary of Agriculture, Food and Market may authorize an
2 exemption to the prohibition on the application of manure to land in the State
3 between December 15 and April 1 of any calendar year. An exemption issued
4 under this section may authorize land application of manure on a weekly,
5 monthly, or seasonal basis or in authorized regions, areas, or fields in the State
6 provided that the requirements of subdivision (2) of this subsection are
7 complied with.

8 (2) Any exemption issued under this subsection shall:

9 (A) prohibit application of manure:

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

12 (ii) in nonharvested permanent vegetative buffers;

13 (iii) in a nonfarmed wetland, as that term is defined in 10 V.S.A.
14 § 902(5);

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

17 (v) to fields exceeding tolerable soil loss; and

18 (vi) to saturated soils;

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

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

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

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

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

9 * * * Agricultural Water Quality;

10 Certification of Custom Applicators * * *

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

12 Subchapter 10. Certification of Custom Manure Applicators

13 § 4987. DEFINITIONS

14 As used in this subchapter:

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

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

19 (3) “Sludge” means any solid, semisolid, or liquid generated from a
20 municipal, commercial, or industrial wastewater treatment plant or process.

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

3 § 4988. CERTIFICATION OF CUSTOM MANURE APPLICATOR

4 (a) On or before January 1, 2015, the Secretary of Agriculture, Food and
5 Markets shall adopt by procedure a process by which a custom applicator shall
6 be certified to operate within the State. The certification process shall require
7 a custom applicator to complete 16 hours of training over each five-year period
8 regarding:

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

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

13 (b) Beginning January 1, 2016, a custom applicator shall not apply manure,
14 nutrients, or sludge unless certified by the Secretary of Agriculture, Food and
15 Markets.

16 * * * Agricultural Stream Alteration * * *

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

18 § 4810a. AGRICULTURAL ACTIVITIES; STREAMS

19 (a) As used in this section:

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

4 (2) “Instream material” means:

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

6 (B) ledge rock; or

7 (C) large woody debris in the bed of a watercourse or within the
8 banks of a watercourse.

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

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

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

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

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1 (7) “Stream” means a current of water that flows at any time at a rate of
2 less than 1.5 cubic feet per second and exhibits evidence of sediment transport.
3 A stream shall include the full length and width, including the bed and banks
4 of any watercourse, including rivers, streams, creeks, brooks, and branches,
5 which experience perennial flow. “Stream” shall not include swales, roadside
6 ditches, ditches or other constructed channels primarily associated with land
7 drainage or water conveyance through or around private infrastructure,
8 excepting such ditches or conveyances that are connected directly with a
9 stream or river at either end.

10 (b) On or before January 1, 2016, the Secretary shall amend the accepted
11 agricultural practices to include requirements for agricultural activities that
12 alter or impact streams in the State. The accepted agricultural practices for
13 stream activities shall:

14 (1) prohibit the discharge or deposit of manure, milk house waste,
15 compost, or other discarded substances in a stream or a ditch or ravine that are
16 connected to a stream;

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

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

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

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

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

9 (3) will not significantly damage the rights of riparian owners; and

10 (4) in case of any waters designated as outstanding resource waters, will
11 not adversely affect the values sought to be protected by designation.

12 (d) Prior to issuing an authorization under subdivisions (b)(2) and (3) of
13 this section, the Secretary shall consult with the Secretary of Natural Resources
14 regarding appropriate management measures to be used in conducting any
15 authorized activity.

16 * * * Stormwater Management * * *

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

18 § 1264. STORMWATER MANAGEMENT

19 * * *

20 (b) The ~~secretary~~ Secretary shall prepare a plan for the management of
21 collected stormwater runoff found by the ~~secretary~~ Secretary to be deleterious

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1 to receiving waters. The plan shall recognize that the runoff of stormwater is
2 different from the discharge of sanitary and industrial wastes because of the
3 influence of natural events of stormwater runoff, the variations in
4 characteristics of those runoffs, and the increased stream flows and natural
5 degradation of the receiving water quality at the time of discharge. The plan
6 shall be cost effective and designed to minimize any adverse impact of
7 stormwater runoff to waters of the ~~state~~ State. By no later than February 1,
8 2001, the ~~secretary~~ Secretary shall prepare an enhanced stormwater
9 management program and report on the content of that program to the ~~house~~
10 ~~committees on fish, wildlife and water resources and on natural resources and~~
11 ~~energy and to the senate committee on natural resources and energy~~ House
12 Committees on Fish, Wildlife and Water Resources and on Natural Resources
13 and Energy and to the Senate Committee on Natural Resources and Energy. In
14 developing the program, the ~~secretary~~ Secretary shall consult with ~~the board,~~
15 affected municipalities, regional entities, other ~~state~~ State and federal agencies,
16 and members of the public. The ~~secretary~~ Secretary shall be responsible for
17 implementation of the program. The ~~secretary's~~ Secretary's stormwater
18 management program shall include, at a minimum, provisions that:

19 * * *

20 (12) Encourage municipal governments to utilize existing regulatory and
21 planning authority to implement improved stormwater management by

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1 providing technical assistance, training, research and coordination with respect
2 to stormwater management technology, and by preparing and distributing a
3 model local stormwater management ordinance or bylaw. Beginning on
4 July 1, 2014, the Secretary annually shall provide municipalities with outreach
5 and education through published materials or training courses regarding the
6 environmental and municipal benefits of adoption of a local stormwater
7 management ordinance or bylaw. The stream alteration training and education
8 activities required under subsection 1023(d) of this title and any education and
9 outreach conducted under this subdivision (12) shall inform municipalities of
10 model stormwater management ordinances or bylaws that are available in the
11 State.

12 * * *

13 * * * Water Quality Data Coordination * * *

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

15 § 1284. WATER QUALITY DATA COORDINATION

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

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

21 (2) stream gauge data;

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- 1 (3) stream mapping, including fluvial erosion hazard maps;
2 (4) water quality monitoring or sampling data;
3 (5) cumulative stressors on watershed, such as the frequency an activity
4 is conducted within a watershed or the number of stormwater or other permits
5 issued in a watershed; and
6 (6) any other data available to the Secretary.

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

- 9 (1) assess where additional data are needed and the best methods for
10 collection of such data;
11 (2) identify and map on a regional basis areas of the State that are
12 significant contributors to water quality problems or are in critical need of
13 water quality remediation or response.

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

16 * * * Shoreland Contractor Certification * * *

17 Sec. **12**. 10 V.S.A. § 1429 is added to read:

18 § 1429. SHORELAND CONTRACTOR; CERTIFICATION

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

- 20 (1) “Impervious surface” shall have the same meaning as in section
21 1264 of this title.

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

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

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

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

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

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

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

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

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

4 (d) The requirements of this section shall not apply to the owner or
5 operator of a farm conducting agricultural activities on the farm that comply
6 with the rules adopted by the Secretary of Agriculture, Food and Markets
7 under 6 V.S.A. chapter 215, regarding agricultural water quality, including
8 accepted agricultural practices, best management practices, animal waste
9 permits, and large farm permits. The requirements of this section shall apply
10 to a person, other than an employee of the owner or operator of the farm, who
11 charges for the service of tillage, harvesting, or other agricultural activity that
12 disturbs soil, clears vegetation, or constructs impervious surface of more than
13 500 square feet in a shoreland area.

14 * * * Forestry Practices * * *

15 Sec. 13. DEPARTMENT OF FORESTS, PARKS AND RECREATION;

16 FORESTRY; PORTABLE SKIDDER PROJECT

17 In addition to any other funds appropriated to the Department of Forests,
18 Parks and Recreation in fiscal year 2015 there is appropriated in fiscal year
19 2015 from the General Fund to the Department:

[Highlight language = change from previous version]

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

4 (2) \$20,000.00 for the purchase of construction of portable skidder
5 bridges.

6 * * * Town Road and Bridge Standards * * *

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

8 § 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

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

19 (b) Notwithstanding subsection 309a(a) of this title, grants provided to
20 towns under the class 2 town highway roadway program shall be matched by
21 local funds sufficient to cover 30 percent of the project costs, unless the town

[Highlight language = change from previous version]

1 has adopted road and bridge standards, has completed a network inventory, and
2 has submitted an annual certification of compliance for town road and bridge
3 standards to the ~~secretary~~ Secretary, in which event the local match shall be
4 sufficient to cover ~~20~~ 15 percent of the project costs. The ~~secretary~~ Secretary
5 may adopt rules to implement the class 2 town highway roadway program.
6 Class 2 town highway roadway projects receiving funds pursuant to this
7 subsection shall be the responsibility of the applicant municipality, and a
8 municipality shall not receive a grant in excess of \$175,000.00.

9 * * *

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

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

12 § 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX

13 CREDIT

14 (a) A taxpayer of this State who is engaged in the business of farming or
15 who is implementing a nutrient management plan approved by the Secretary of
16 Agriculture, Food and Markets may claim a credit against his or her income
17 taxes imposed by this chapter in an amount equal to 25 percent of the first
18 \$70,000.00 expended by the taxpayer for an agricultural best management
19 practice approved by the Secretary of Agriculture, Food and Markets under
20 6 V.S.A. chapter 215, provided that that the credit shall not exceed the liability
21 of the taxpayer under this chapter for the year in which the credit is claimed.

[Highlight language = change from previous version]

1 (b) Best management practices eligible for the credit under this section

2 shall include approved activities to:

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

4 § 761;

5 (2) control soil erosion;

6 (3) nutrient and sediment filtration and detention;

7 (4) nutrient management planning; and

8 (5) pest and pesticide handling.

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

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

19 (e) The amount of any credit claimed under this section attributable to
20 agricultural best management practices by a pass-through entity such as a
21 partnership, limited liability company, or electing small business corporation

[Highlight language = change from previous version]

1 (S Corporation) shall be allocated to the individual partners, members, or
2 shareholders in proportion to their ownership or interest in such entity.

3 (f) As used in this section, “engaged in the business of farming” means a
4 taxpayer earns at least one-half of his or her annual gross income from the
5 business of farming, as that term is defined in the Internal Revenue Code,
6 26 C.F.R. § 1.175-3

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

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

10 On or before January 15, 2015, the Secretary of Natural Resources, after
11 consultation with the Joint Fiscal Office, shall submit to the Senate Committee
12 on Natural Resources and Energy, the House Committee on Fish, Wildlife and
13 Water Resources, and the Senate and House Committees on Appropriations a
14 report that provides recommendations for establishing a financing mechanism
15 that assesses property owners in the State based for the property’s impact on
16 water quality. The report shall include:

17 (1) at least two alternative financing mechanisms;

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

20 (3) an estimate amount of revenue that each recommended financing
21 proposal would generate.

[Highlight language = change from previous version]

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

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

3 § 9241. IMPOSITION OF TAX

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

6 (b) An operator shall collect a tax on the sale of each taxable meal at the
7 rate of nine and one-quarter percent of each full dollar of the total charge and
8 on each sale for less than one dollar and on each part of a dollar in excess of a
9 full dollar in accordance with the following formula:

10	\$0.01-0.11	\$0.01
11	0.12-0.22	0.02
12	0.23-0.33	0.03
13	0.34-0.44	0.04
14	0.45-0.55	0.05
15	0.56-0.66	0.06
16	0.67-0.77	0.07
17	0.78-0.88	0.08
18	0.89-1.00	0.09
19	<u>\$0.01-0.05</u>	<u>\$0.00</u>
20	<u>0.06-0.15</u>	<u>0.01</u>
21	<u>0.16-0.26</u>	<u>0.02</u>

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1	<u>0.27-0.36</u>	<u>0.03</u>
2	<u>0.37-0.47</u>	<u>0.04</u>
3	<u>0.48-0.57</u>	<u>0.05</u>
4	<u>0.58-0.68</u>	<u>0.06</u>
5	<u>0.69-0.78</u>	<u>0.07</u>
6	<u>0.79-0.89</u>	<u>0.08</u>
7	<u>0.90-0.99</u>	<u>0.09</u>

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

12	<u>\$.01-.14</u>	<u>\$.01</u>
13	<u>.15-.24</u>	<u>.02</u>
14	<u>.25-.34</u>	<u>.03</u>
15	<u>.35-.44</u>	<u>.04</u>
16	<u>.45-.54</u>	<u>.05</u>
17	<u>.55-.64</u>	<u>.06</u>
18	<u>.65-.74</u>	<u>.07</u>
19	<u>.75-.84</u>	<u>.08</u>
20	<u>.85-.94</u>	<u>.09</u>
21	<u>.95-1.00</u>	<u>.10</u>

[Highlight language = change from previous version]

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

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

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

18 § 435. GENERAL FUND

19 (a) There is established a General Fund which shall be the basic operating
20 fund of the State. The General Fund shall be used to finance all expenditures
21 for which no special revenues have otherwise been provided by law.

[Highlight language = change from previous version]

- 1 (b) The General Fund shall be composed of revenues from the following
2 sources:
- 3 (1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;
4 (2) [Repealed.]
5 (3) Electrical energy tax levied pursuant to chapter 213 of this title;
6 (4) Corporate income and franchise taxes levied pursuant to chapter 151
7 of this title;
8 (5) Individual income taxes levied pursuant to chapter 151 of this title;
9 (6) All corporation taxes levied pursuant to chapter 211 of this title;
10 (7) Meals 98 percent of the meals and rooms taxes levied pursuant to
11 chapter 225 of this title;
12 (8) [Repealed.]
13 (9) Revenues from the Racing Fund consistent with 31 V.S.A. § ~~611~~
14 609;
15 (10) 33 percent of the revenue from the property transfer taxes levied
16 pursuant to chapter 231 of this title and the revenue from the gains taxes levied
17 each year pursuant to chapter 236 of this title;
18 (11) 65 percent of the revenue from sales and use taxes levied pursuant
19 to chapter 233 of this title;

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1 subsection 8903(d) on rental cars shall be paid into the Ecosystem Restoration
2 Program Fund under 10 V.S.A § 1285.

3 * * * Ecosystem Restoration Program Fund * * *

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

5 § 1285. ECOSYSTEM RESTORATION PROGRAM FUND

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

11 (b) Deposits to accounts:

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

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

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

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

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

[Highlight language = change from previous version]

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

2 and

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

4 (c) Disbursements from the Fund.

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

8 (2) The Secretary may authorize disbursement or expenditures from the
9 Administrative Account for administration of, education and outreach related
10 to, monitoring, and implementation of the activities or projects under the
11 Ecosystem Restoration Program.

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

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

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

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

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

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

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

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

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

20 Sec. 23. REPORT ON ACCEPTED AGRICULTURAL PRACTICES

21 UNDER USE VALUE APPRAISAL

[Highlight language = change from previous version]

1 On or before January 15, 2015, the Agency of Agriculture, Food and
2 Markets (AAFM), after consultation with the Department of Forests, Parks and
3 Recreation and the Division of Property Valuation and Review (PVR) at the
4 Department of Taxes, shall submit to the House Committee on Fish, Wildlife
5 and Water Resources, the Senate Committee on Natural Resources and Energy,
6 the House Committee on Ways and Means, the Senate Committee on Finance,
7 the House Committee on Agriculture and Forest Products, and the Senate
8 Committee on Agriculture a report regarding compliance with the accepted
9 agricultural practices (AAPs) issued under 6 V.S.A. chapter 215 as a
10 requirement of eligibility for participation in the use value appraisal program.

11 The report shall include:

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

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

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

20 (C) an estimate of the number of staff and other resources required by
21 the AAFM or PVR to implement, administer, and enforce the requirement of

[Highlight language = change from previous version]

1 compliance with AAPs as a condition of participation in the use value
2 appraisal program.

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

7 Sec. 24. EFFECTIVE DATES

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

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

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

21

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1 (Committee vote: _____)

2

3

Representative

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FOR THE COMMITTEE