

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

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

15 (2) an “animal feeding operation,” as that term is defined in subdivision  
16 4857(1) of this title, which houses:

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

18 (B) four to 150 horses or equines.

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

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

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

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

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

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

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

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

4           (7) 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 applied in such a  
6           manner as to enter surface water.

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

9           (9) Cropland on the farm is cultivated in a manner that results in an  
10          average soil loss of less than or equal 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          (10) 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          (11) Manure, fertilizer, pesticide storage structures, and farm structures  
18          are not located within a floodway area as presented on National Flood  
19          Insurance Maps on file with town clerks or within a Fluvial Erosion Hazard  
20          Zone as designated by municipal bylaw or ordinance.

1       (d) Required assessment. The Secretary shall visit small farms in the State  
2       for purposes of assessing compliance with the accepted agricultural practices  
3       and for consistency with a certification issued under this section. The  
4       Secretary may establish procedures by which visits to small farms in the State  
5       are prioritized based on the potential water quality issue posed by a farm.

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

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

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

19      (f) Annual training. Beginning July 1, 2014, the owner or operator of a  
20      small farm shall complete over every five-year period eight hours of training  
21      courses approved by the Secretary under section 4981 of this title.

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

2 § 4860. REVOCATION; ENFORCEMENT

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

17 (b) Any person who violates any provision of this subchapter or who fails  
18 to comply with any order or the terms of any permit or certification issued in  
19 accordance with this subchapter shall be fined not more than \$10,000.00 for  
20 each violation. Each violation may be a separate offense and, in the case of a

1 continuing violation, each day's continuance may be deemed a separate  
2 offense.

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

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

14 **§ 4810. AUTHORITY; COOPERATION; COORDINATION**

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

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

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



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

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. The  
10 rules adopted under this section shall be at least as stringent as the  
11 requirements of section 4858a of this title.

12 Sec. 3a. REPEAL

13 6 V.S.A. § 4858a (small farm certification) shall be repealed on January 1,  
14 2016.

15 \*\*\* Agricultural Water Quality; Corrective Actions \*\*\*

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

17 § 4812. CORRECTIVE ACTIONS

18 (a) When the ~~secretary of agriculture, food and markets~~ Secretary of  
19 Agriculture, Food and Markets determines that a person engaged in farming is  
20 managing a farm using practices which are ~~inconsistent with practices defined~~  
21 ~~by of this chapter or rules adopted~~ under this subchapter, the secretary

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

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

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

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

20 (c) ~~Whenever the secretary~~ Secretary believes that any person engaged in  
21 farming is in violation of this subchapter or rules adopted thereunder, an action

1 may be brought in the name of the ~~agency~~ Agency in a court of competent  
2 jurisdiction to restrain by temporary or permanent injunction the continuation  
3 or repetition of the violation. The court may issue temporary or permanent  
4 injunctions, and other relief as may be necessary and appropriate to curtail any  
5 violations.

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

9 [Repealed.]

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

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

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

17 Subchapter 8. Livestock Exclusion

18 § 4971. DEFINITIONS

19 As used in this subchapter:

20 (1) “Livestock” means cattle, sheep, goats, equines, fallow deer, red  
21 deer, American bison, swine, water buffalo, poultry, pheasant, Chukar

1 partridge, Coturnix quail, camelids, ratites, and, as necessary, other animals  
2 designated by the Secretary by rule.

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

4 § 4972. PURPOSE

5 The purpose of this subchapter is to authorize the Secretary of Agriculture,  
6 Food and Markets to require exclusion of livestock from a water of the State  
7 where continued access to the water by livestock poses a high risk of  
8 negatively impacting water quality in the State.

9 § 4973. LIVESTOCK EXCLUSION

10 (a) Beginning January 1, 2014, the Secretary of Agriculture, Food and  
11 Markets may:

12 (1) adopt by rule requirements for the exclusion of livestock from  
13 certain waters of the State; and

14 (2) issue an order to the owner of livestock requiring that livestock be  
15 excluded from entering a water of the State.

16 (b) The Secretary may:

17 (1) waive a requirement for livestock exclusion under subsection (a) of  
18 this section when waiver will not negatively impact water quality; or

19 (2) authorize the owner of livestock to maintain stream crossings or  
20 watering areas along waters from which livestock are excluded if the crossing

1 or watering area is designed and maintained to limit the risk of any negative  
2 impact to water quality.

3 \* \* \* Seasonal Exemption for Manure Application \* \* \*

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

5 § 4816. SEASONAL EXEMPTION FOR MANURE APPLICATION

6 (a) The Secretary of Agriculture, Food and Market may adopt by procedure  
7 an exemption to prohibition on the application of manure to land in the State  
8 between December 15 and April 1 of any calendar year. The procedure may  
9 authorize land application of manure on a weekly, monthly, or seasonal basis,  
10 provided that the requirements of subsection (b) of this section are complied  
11 with.

12 (b) Any procedure adopted under this section shall:

13 (1) prohibit application of manure:

14 (A) in areas with established channels of concentrated stormwater  
15 runoff to surface water, including ditches and ravines;

16 (B) in nonharvested permanent vegetative buffers;

17 (C) in a nonfarmed wetland, as that term is defined in 10 V.S.A.  
18 § 902(5);

19 (D) within 50 feet of a potable water supply, as that term is defined in  
20 10 V.S.A. § 1972(6);

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

1           (F) to saturated soils;

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

4           (3) require manure to be applied according to a nutrient management  
5           plan; and

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

8           (c) A person shall not apply manure to land in the State between  
9           December 15 and April 1 of any calendar year unless authorized by the  
10           procedure adopted by the Secretary of Agriculture, Food and Markets under  
11           subsection (a) of this section.

12                           \* \* \* Agricultural Water Quality; Training\* \* \*

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

14                           Subchapter 9. Agricultural Water Quality Certification Training

15                           § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

16                           TRAINING

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

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

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) The training program shall:

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

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

9           (3) require the owner or operator of each large farm, medium farm, or  
10 small farm permitted or certified under this chapter to complete over every  
11 five-year period eight hours of training courses approved by the Secretary  
12 under this section.

13                           \* \* \* Agricultural Water Quality;

14                           Certification of Custom Applicators \* \* \*

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

16                   Subchapter 10. Certification of Custom Manure Applicators

17           § 4987. DEFINITIONS

18           As used in this subchapter:

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



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

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

7           § 4988. CERTIFICATION OF CUSTOM MANURE APPLICATOR

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

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

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

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



1 broad participation; focuses upon the prevention of pollution; relies on  
2 structural treatment only when necessary; establishes and maintains  
3 accountability; tailors strategies to the region and the locale; assures an  
4 adequate funding source; builds broadbased programs; provides for the  
5 evaluation and appropriate evolution of programs; is consistent with the federal  
6 Clean Water Act and the ~~state~~ State water quality standards; and accords  
7 appropriate recognition to the importance of community benefits that  
8 accompany an effective stormwater runoff management program. In  
9 furtherance of these purposes, the ~~secretary~~ Secretary shall implement two  
10 stormwater permitting programs. The first program is based on the  
11 requirements of the federal National Pollutant Discharge Elimination System  
12 (NPDES) permit program in accordance with section 1258 of this title. The  
13 second program is a ~~state~~ State permit program based on the requirements of  
14 this section for the discharge of “regulated stormwater runoff” as that term is  
15 defined in subdivision (11) of this subsection. As used in this section:

16 (1) “2002 stormwater management manual” means the ~~agency of natural~~  
17 ~~resources~~<sup>2</sup> Agency of Natural Resources’ stormwater management manual  
18 dated April 2002, as amended from time to time by rule.

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

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

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

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

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

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

18           (8) “Offset” means a ~~state-permitted or approved~~ State-permitted  
19 or -approved action or project within a stormwater-impaired water that a  
20 discharger or a third person may complete to mitigate the impacts that a

1 discharge of regulated stormwater runoff has on the stormwater-impaired  
2 water.

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

6 (10) “Redevelopment” means the construction or reconstruction of an  
7 impervious surface where an impervious surface already exists when such new  
8 construction involves substantial site grading, substantial subsurface  
9 excavation, or substantial modification of existing stormwater conveyance,  
10 such that the total of impervious surface to be constructed or reconstructed is  
11 greater than the minimum regulatory threshold. Redevelopment does not mean  
12 the construction or reconstruction of impervious surface where impervious  
13 surface already exists when the construction or reconstruction involves less  
14 than 5,000 square feet. Redevelopment does not mean public road  
15 management activities, including any crack sealing, patching, coldplaning,  
16 resurfacing, reclaiming, or grading treatments used to maintain pavement,  
17 bridges, and unpaved roads.

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

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

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

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

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

17           (16) “Water quality remediation plan” means a plan, other than a TMDL  
18 or sediment load allocation, designed to bring an impaired water body into  
19 compliance with applicable water quality standards in accordance with  
20 40 C.F.R. § 130.7(b)(1)(ii) and (iii).

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

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

11           (19) “Net zero standard” means:

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

15           (B) A discharge from redevelopment; from an existing discharge  
16 operating under an expired stormwater discharge permit where the property  
17 owner applies for a new permit; or from any combination of development,  
18 redevelopment, and expansion meets on-site the water quality, recharge, and  
19 channel protection criteria set forth in Table 1.1 of the 2002 stormwater  
20 management manual that are determined to be technically feasible by an  
21 engineering feasibility analysis conducted by the ~~agency~~ Agency and if the

1 sediment load from the discharge approximates the natural runoff from an  
2 undeveloped field or open meadow that is not used for agricultural activity.

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



1 implementation of the program. The ~~secretary's~~ Secretary's stormwater  
2 management program shall include, at a minimum, provisions that:

3 \* \* \*

4 (12) Encourage municipal governments to utilize existing regulatory and  
5 planning authority to implement improved stormwater management by  
6 providing technical assistance, training, research and coordination with respect  
7 to stormwater management technology, and by preparing and distributing a  
8 model local stormwater management ordinance or bylaw. Beginning July 1,  
9 2014, the Secretary annually shall provide municipalities with outreach and  
10 education through published materials or training courses regarding the  
11 environmental and municipal benefits of adoption of a local stormwater  
12 management ordinance or bylaw. Any education and outreach conducted  
13 under this subsection shall inform municipalities of available model  
14 stormwater management ordinances or bylaws.

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

18 \* \* \*

19 (d)(1) The ~~secretary~~ Secretary shall initiate rulemaking by October 15,  
20 2004, and shall adopt a rule for a stormwater management program by June 15,

1 2005. The rule shall be adopted in accordance with 3 V.S.A. chapter 25 and  
2 shall include:

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

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

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

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



1     § 1291. DEFINITIONS

2             As used in this subchapter:

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

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

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

8             (4) “Stormwater runoff” shall have the same meaning as in subdivision  
9 1264(a)(14) of this title.

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

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

14     § 1292. WATER RESOURCES PRESERVATION PROGRAM;

15             ESTABLISHMENT

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

20            (1) improvement of the quality of waters of the State;

21            (2) prevention, mitigation against, or repair of flood damage; or

1           (3) provision of reasonable assurances regarding the implementation of  
2 Total Maximum Daily Load plans.

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

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

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

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

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

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

18           (6) monitor or assess previous or ongoing water quality or flood  
19 response programs;

20           (7) conduct education and outreach activities regarding the need for and  
21 benefits of water quality restoration, BMPs to reduce water quality impacts, the

1 construction or repair of infrastructure related to water quality, and flood  
2 hazard management, including activities necessary to fulfil the education and  
3 outreach requirements or obligations of municipalities subject to the municipal  
4 separate storm sewer requirements under the federal Clean Water Act.

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

12 § 1293. WATER RESOURCES PRESERVATION FEE

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

1 surface area for a single-family residential unit in Vermont. The default fee for  
2 residential developed property shall not exceed \$50.00 per year per parcel of  
3 property.

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

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

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

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

14 (D) provide for exemptions from the fee.

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

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

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

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

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

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

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

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



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

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

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

12           § 1295. WATER RESOURCES PRESERVATION FUND

13           (a) There is hereby established in the State Treasury a special fund to be  
14 known as the Water Resources Preservation Fund, to be administered and  
15 expended by the Secretary to fund the Water Resources Preservation Program.  
16 The Secretary may authorize disbursement or expenditures from the Fund for  
17 the purposes of the Water Resources Preservation Program set forth in section  
18 1292 of this title.

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

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

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

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

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

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

7           (c) Interest earned by the Fund shall be credited and deposited to the Fund.

8           All balances in the Fund at the end of the fiscal year shall be carried forward  
9 and remain a part of the Fund.

10           § 1296. AWARD OF FUNDS; PRIORITY AWARD

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

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

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

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

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

1     § 1297. ANNUAL REPORT

2             On or before January 1, 2014, and annually thereafter, the Secretary shall  
3     report to the House Committee on Fish, Wildlife and Water Resources and the  
4     Senate Committee on Natural Resources and Energy regarding implementation  
5     and administration of the Water Resources Preservation Program. The report  
6     shall:

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

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

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

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

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

18                    \* \* \* Shoreland Contractor Certification \* \* \*

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

20     § 1429. SHORELAND CONTRACTOR; CERTIFICATION

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

1           (1) “Impervious surface” shall have the same meaning as in section  
2           1264 of this title.

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

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

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

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

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

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

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

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

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

7           (d) The requirements of this section shall not apply to agricultural activities  
8 that comply with the rules adopted by the Secretary of Agriculture, Food and  
9 Markets under 6 V.S.A. chapter 215, regarding agricultural water quality,  
10 including accepted agricultural practices, best management practices, medium  
11 and small farm operation, and large farm operation.

12   \* \* \* Forestry Practices \* \* \*

13           Sec. 13. DEPARTMENT OF FOREST, PARKS AND RECREATION;

14   FORESTRY; PORTABLE SKIDDER PROJECT

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

1                                 \* \* \* Town Road and Bridge Standards \* \* \*

2       Sec. 14. 19 V.S.A. § 303 is amended to read:

3       § 303. TOWN HIGHWAY CONTROL; STANDARDS; ENFORCEMENT

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

7           (b)(1) Each municipality shall adopt road and bridge standards that include  
8       best management practices to address water quality and that meet or exceed the  
9       minimum requirements of the Agency’s recommended town road and bridge  
10       standards.

11           (2) A municipality that violates the requirements of this section shall be  
12       liable for a civil penalty of not more than \$3,000.00. A violation of this  
13       section shall be enforceable by the Secretary of Natural Resources under  
14       10 V.S.A. § 8019.

15       Sec. 15. 19 V.S.A. § 306 is amended to read:

16       § 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

17           (a) General ~~state~~ State aid to town highways. An annual appropriation to  
18       class 1, 2, and 3 town highways shall be made. This appropriation shall  
19       increase or decrease over the previous year’s appropriation by the same  
20       percentage as any increase or decrease in the ~~transportation agency’s~~ Agency  
21       of Transportation’s total appropriations funded by ~~transportation fund~~

1 Transportation Fund revenues, excluding the town highway appropriations for  
2 that year. The funds appropriated shall be distributed to towns as follows:

3 (1) six percent of the ~~state's~~ State's annual town highway appropriation  
4 shall be apportioned to class 1 town highways. The apportionment for each  
5 town shall be that town's percentage of class 1 town highways of the total class  
6 1 town highway mileage in the ~~state~~ State;

7 (2) forty-four percent of the ~~state's~~ State's annual town highway  
8 appropriation shall be apportioned to class 2 town highways. The  
9 apportionment for each town shall be that town's percentage of class 2 town  
10 highways of the total class 2 town highway mileage in the ~~state~~ State;

11 (3) fifty percent of the ~~state's~~ State's annual town highway  
12 appropriation shall be apportioned to class 3 town highways. The  
13 apportionment for each town shall be that town's percentage of class 3 town  
14 highways of the total class 3 town highway mileage in the ~~state~~ State;

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

18 (5) each town shall use the monies apportioned to it solely for town  
19 highway construction, improvement, and maintenance purposes or as the  
20 nonfederal share for public transit assistance. These funds may also be used  
21 for the establishment and maintenance of bicycle routes. The members of the



1 selectboard shall be personally liable to the ~~state~~ State, in a civil action brought  
2 by the ~~attorney general~~ Attorney General, for making any unauthorized  
3 expenditures from money apportioned to the town under this section.

4 (6) starting in fiscal year 2015, each town that has not adopted road and  
5 bridge standards as required under section 303 of this title shall forfeit five  
6 percent of the town's total State aid allocation under this subsection. Any  
7 moneys forfeited under this subdivision shall be reallocated to towns that have  
8 adopted road and bridge standards in accordance with subdivisions (1)–(3) of  
9 this subsection, except that the forfeiting towns' class 1, 2, and 3 mileage shall  
10 be subtracted from the statewide totals of class 1, 2, and 3 town highway  
11 mileage.

12 \* \* \*

13 Sec. 16. 10 V.S.A. § 8003(a) is amended to read:

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

17 \* \* \*

18 (22) 10 V.S.A. chapter 164A, collection and disposal of  
19 mercury-containing lamps; ~~and~~



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

2       Sec. 18. 32 V.S.A. § 5930mm is added to read:

3       § 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX

4                   CREDIT

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

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

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

16       § 761;

17           (2) control soil erosion;

18           (3) nutrient and sediment filtration and detention;

19           (4) nutrient management planning; and

20           (5) pest and pesticide handling.

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

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

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

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

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

2           Sec. 19. 32 V.S.A. chapter 242 is added to read:

3                                   CHAPTER 242. EXCISE TAXES

4           § 10401. EXCISE TAX ON BOTTLED WATER

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

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

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

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

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

1        (b) Imposition of excise tax.

2            (1) Beginning January 1, 2015, an excise tax is imposed on each  
3        manufacturer of bottled water who sells bottled water in or into the State. The  
4        excise tax is imposed at a rate of five cents per bottle of water sold in or into  
5        the State.

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

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

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

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

20        (d) Deposit of excise tax. The Department of Taxes shall deposit the tax  
21        collected under this section into the Water Resources Preservation Fund

1 established under 10 V.S.A. § 1295 for use according to the purposes of the  
2 fund.

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

6 § 10402. EXCISE TAX ON FLUSHABLE PRODUCTS

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

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

11 (2) “Soap or detergent” means:

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

13 (B) cleaning detergents, such as laundry detergents and dishwashing  
14 detergents;

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

16 (D) mouthwash and similar oral rinses.

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

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

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

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

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

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

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

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

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



1      Sec. **21**. EFFECTIVE DATES

2            (a) This section and Secs. 1–3a (small farm certification), 4 (Agency of  
3            Agriculture, Food and Markets corrective action), 5 (livestock exclusion), 6  
4            (seasonal exemption for application of manure), 8 (custom applicator  
5            certification), 9 (stream alteration), 10 (stormwater permitting; model bylaw),  
6            11 (Water Resources Preservation Program), 12 (shoreland contractor  
7            certification), 13 (financing; technical assistance for forestry), 18 (agricultural  
8            best management practices tax credit), and 19 (bottled water excise tax and  
9            flushable products excise tax) shall take effect on passage.

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

12           (c) Secs. 14–17 (town road and bridge standards) shall take effect on  
13           July 1, 2015.

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative [surname]

FOR THE COMMITTEE