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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) 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.

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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.

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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 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 (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.

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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 a visit to a
7 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 to surface waters of
10 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 [Flexibility]

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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

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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.

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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. 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. 4. 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. 5. 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 the ~~practices~~
21 defined by requirements of this chapter or rules adopted under this subchapter,

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1 the ~~secretary~~ Secretary may issue a written warning which shall be served in
2 person or by certified mail, return receipt requested. ~~The warning shall include~~
3 ~~a brief description of the alleged violation, identification of this statute and~~
4 ~~applicable rules, a recommendation for corrective actions that may be taken by~~
5 ~~the person, along with a summary of federal and state assistance programs~~
6 ~~which may be utilized by the person to remedy the violation and a request for~~
7 ~~an 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

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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. **6**. 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

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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; PERMIT CONDITION

10 As a condition of a small farm certification, an animal waste permit, or a
11 large permit issued under this chapter, the Secretary of Agriculture, Food and
12 Markets may require exclusion of livestock from a water of the State where
13 continued access to the water by livestock poses a high risk of negatively
14 impacting water quality in the State.

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

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

17 § 4816. SEASONAL EXEMPTION FOR MANURE APPLICATION

18 (a) The Secretary of Agriculture, Food and Market may authorize an
19 exemption to the prohibition on the application of manure to land in the State
20 between December 15 and April 1 of any calendar year. An exemption issued
21 under this section may authorize land application of manure on a weekly.

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1 monthly, or seasonal basis or in authorized regions, areas, or fields in the State
2 provided that the requirements of subsection (b) of this section are complied
3 with.

4 (b) Any exemption issued under this section shall:

5 (1) prohibit application of manure:

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

8 (B) in nonharvested permanent vegetative buffers;

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

11 (D) within 50 feet of a potable water supply, as that term is defined in
12 10 V.S.A. § 1972(6);

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

14 (F) to saturated soils;

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

17 (3) require manure to be applied according to a nutrient management
18 plan; and

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

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

4 * * * Agricultural Water Quality;
5 Certification of Custom Applicators * * *

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

7 Subchapter 10. Certification of Custom Manure Applicators

8 § 4987. DEFINITIONS

9 As used in this subchapter:

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

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

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

18 § 4988. CERTIFICATION OF CUSTOM MANURE APPLICATOR

19 (a) On or before January 1, 2015, the Secretary of Agriculture, Food and
20 Markets shall adopt by procedure a process by which a custom applicator shall
21 be certified to operate within the State. The certification process shall require

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1 a custom applicator to complete 16 hours of training over each five-year period
2 regarding:

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

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

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

10 * * * Stream Alteration * * *

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

12 § 1002. DEFINITIONS

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

15 * * *

16 (10) “Watercourse” means any perennial stream. “Watercourse” shall
17 not include ditches or other constructed channels primarily associated with
18 land drainage or water conveyance through or around private or public
19 infrastructure.

20 * * *

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1 (NPDES) permit program in accordance with section 1258 of this title. The
2 second program is a ~~state~~ State permit program based on the requirements of
3 this section for the discharge of “regulated stormwater runoff” as that term is
4 defined in subdivision (11) of this subsection. As used in this section:

5 (1) “2002 stormwater management manual” means the ~~agency of natural~~
6 ~~resources~~² Agency of Natural Resources’ stormwater management manual
7 dated April 2002, as amended from time to time by rule.

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

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

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

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

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

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

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

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

16 (10) “Redevelopment” means the construction or reconstruction of an
17 impervious surface where an impervious surface already exists when such new
18 construction involves substantial site grading, substantial subsurface
19 excavation, or substantial modification of existing stormwater conveyance,
20 such that the total of impervious surface to be constructed or reconstructed is
21 greater than the minimum regulatory threshold. Redevelopment does not mean

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1 the construction or reconstruction of impervious surface where impervious
2 surface already exists when the construction or reconstruction involves less
3 than 5,000 square feet. Redevelopment does not mean public road
4 management activities, including any crack sealing, patching, coldplaning,
5 resurfacing, reclaiming, or grading treatments used to maintain pavement,
6 bridges, and unpaved roads.

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

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

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

19 (14) “Stormwater runoff” means precipitation and snowmelt that does
20 not infiltrate into the soil, including material dissolved or suspended in it, but

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1 does not include discharges from undisturbed natural terrain or wastes from
2 combined sewer overflows.

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

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

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

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

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1 (19) “Net zero standard” means:

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

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

14 (b) The ~~secretary~~ Secretary shall prepare a plan for the management of
15 collected stormwater runoff found by the ~~secretary~~ Secretary to be deleterious
16 to receiving waters. The plan shall recognize that the runoff of stormwater is
17 different from the discharge of sanitary and industrial wastes because of the
18 influence of natural events of stormwater runoff, the variations in
19 characteristics of those runoffs, and the increased stream flows and natural
20 degradation of the receiving water quality at the time of discharge. The plan
21 shall be cost effective and designed to minimize any adverse impact of

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1 stormwater runoff to waters of the ~~state~~ State. By no later than February 1,
2 2001, the ~~secretary~~ Secretary shall prepare an enhanced stormwater
3 management program and report on the content of that program to the ~~house~~
4 ~~committees on fish, wildlife and water resources and on natural resources and~~
5 ~~energy and to the senate committee on natural resources and energy~~ House
6 Committees on Fish, Wildlife and Water Resources and on Natural Resources
7 and Energy and to the Senate Committee on Natural Resources and Energy. In
8 developing the program, the ~~secretary~~ Secretary shall consult with ~~the board,~~
9 affected municipalities, regional entities, other ~~state~~ State and federal agencies,
10 and members of the public. The ~~secretary~~ Secretary shall be responsible for
11 implementation of the program. The ~~secretary's~~ Secretary's stormwater
12 management program shall include, at a minimum, provisions that:

13 * * *

14 (12) Encourage municipal governments to utilize existing regulatory and
15 planning authority to implement improved stormwater management by
16 providing technical assistance, training, research and coordination with respect
17 to stormwater management technology, and by preparing and distributing a
18 model local stormwater management ordinance or bylaw. Beginning on
19 July 1, 2014, the Secretary annually shall provide municipalities with outreach
20 and education through published materials or training courses regarding the
21 environmental and municipal benefits of adoption of a local stormwater

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1 management ordinance or bylaw. Any education and outreach conducted
2 under this subdivision (12) shall inform municipalities of model stormwater
3 management ordinances or bylaws that are available in the State.

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

7 * * *

8 (e)(1) Except as otherwise may be provided in subsection (f) of this
9 section, the Secretary shall, for new stormwater discharges, require a permit
10 for discharge of, regulated stormwater runoff consistent with, at a minimum,
11 the 2002 Stormwater Management Manual. The Secretary may issue,
12 condition, modify, revoke, or deny discharge permits for regulated stormwater
13 runoff, as necessary to assure achievement of the goals of the program and
14 compliance with State law and the federal Clean Water Act. The permit shall
15 specify the use of best management practices to control regulated stormwater
16 runoff. The permit shall require as a condition of approval, proper operation,
17 and maintenance of any stormwater management facility and submittal by the
18 permittee of an annual inspection report on the operation, maintenance, and
19 condition of the stormwater management system. The permit shall contain
20 additional conditions, requirements, and restrictions as the Secretary deems
21 necessary to achieve and maintain compliance with the water quality standards,

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1 including requirements concerning recording, reporting, and monitoring the
2 effects on receiving waters due to operation and maintenance of stormwater
3 management facilities.

4 (2) As one of the principal means of administering an enhanced
5 stormwater program, the Secretary may issue and enforce general permits. To
6 the extent appropriate, such permits shall include the use of certifications of
7 compliance by licensed professional engineers practicing within the scope of
8 their engineering specialty. The Secretary may issue general permits for
9 classes of regulated stormwater runoff permittees and may specify the period
10 of time for which the permit is valid other than that specified in subdivision
11 1263(d)(4) of this title when such is consistent with the provisions of this
12 section. General permits shall be adopted and administered in accordance with
13 the provisions of subsection 1263(b) of this title. No permit is required under
14 this section for:

15 (A) Stormwater runoff from farms subject to accepted agricultural
16 practices adopted by the Secretary of Agriculture, Food and Markets;

17 (B) Stormwater runoff from concentrated animal feeding operations
18 that require a permit under subsection 1263(g) of this chapter; or

19 (C) Stormwater runoff from silvicultural activities subject to accepted
20 management practices adopted by the Commissioner of Forests, Parks and
21 Recreation.

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1 1264 of this title.

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

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

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

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

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

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

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

21 (1) erosion control measures that shall permanently stay in place are

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1 installed at the site; or

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

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

10 * * * Forestry Practices * * *

11 Sec. 14. DEPARTMENT OF FOREST, PARKS AND RECREATION;

12 FORESTRY; PORTABLE SKIDDER PROJECT

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

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

2 **Sec. 15. 19 V.S.A. § 309b is amended to read:**

3 § 309B. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

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

14 (b) Notwithstanding subsection 309a(a) of this title, grants provided to
15 towns under the class 2 town highway roadway program shall be matched by
16 local funds sufficient to cover 30 percent of the project costs, unless the town
17 has adopted road and bridge standards, has completed a network inventory, and
18 has submitted an annual certification of compliance for town road and bridge
19 standards to the secretary, in which event the local match shall be sufficient to
20 cover **20 15** percent of the project costs. The ~~secretary~~ Secretary may adopt
21 rules to implement the class 2 town highway roadway program. Class 2 town

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1 highway roadway projects receiving funds pursuant to this subsection shall be
2 the responsibility of the applicant municipality, and a municipality shall not
3 receive a grant in excess of \$175,000.00.

4 * * *

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

6 Sec. 16. 32 V.S.A. § 5930mm is added to read:

7 § 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX

8 CREDIT

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

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

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

21 (2) control soil erosion;

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1 (3) nutrient and sediment filtration and detention;

2 (4) nutrient management planning; and

3 (5) pest and pesticide handling.

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

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

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

19 (f) As used in this section, “engaged in the business of farming” means a
20 taxpayer earns at least one-half of his or her annual gross income from the

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1 business of farming, as that term is defined in the Internal Revenue Code,
2 26 C.F.R. § 1.175-3

3 *** * *Ecosystem Restoration Fee* * ***

4 **Sec. 17. 32 V.S.A. chapter 216 is added to read:**

5 **CHAPTER 216. ECOSYSTEM RESTORATION FEE**

6 **§ 8731. ECOSYSTEM RESTORATION FEE**

7 **(a) Creation of fee. There is assessed a fee, known as the Ecosystem**
8 **Restoration fee, on all developed property in the State for the support of the**
9 **Ecosystem Restoration Program Fund and its purposes as set forth under**
10 **10 V.S.A. § 1287.**

11 **(b) Amount of fee. The Ecosystem Restoration fee shall be:**

12 **(1) \$10.00 per parcel for all residential property;**

13 **(2) \$20.00 per parcel for all nonresidential property.**

14 **(c) Applicability of fee.**

15 **(1) Property exempt from taxation under 32 V.S.A. § 3802, 32 V.S.A.**

16 **chapter 135, or by municipal vote shall not be exempt from assessment of the**
17 **fee under this section.**

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1 (2) Properties in the following municipalities shall be exempt from the
2 fee assessed under this chapter:

3 (A) a municipality that has established or is a member of a system
4 or utility under 24 V.S.A. chapter 97 for the treatment or disposal
5 of stormwater; or

6 (B) a municipality that has enacted zoning bylaws, a municipal
7 ordinance, or other mechanism that the Secretary of Natural Resources
8 approves as functionally equivalent to a system or utility established under
9 24 V.S.A. chapter 97.

10 (d) Collection of fee. Beginning on July 1, 2016, the Ecosystem
11 Restoration fee shall be assessed and collected as part of the tax bill issued
12 under 32 V.S.A. § 5402(b). The treasurer of each municipality shall remit the
13 collected Ecosystem Restoration fees to the State Treasurer in two payments
14 due on December 1 and June 1 of each year for deposit in the Ecosystem
15 Restoration Program Fund. The Department of Taxes shall specify the form or
16 format for the remission of the collected fees.

17 (e) Lien. If a property owner required to pay and transmit a fee under this
18 chapter neglects or refuses to pay the same after demand, the amount, together
19 with any costs that may accrue in addition thereto, shall be a lien in favor of
20 the State of Vermont upon all property and rights to property, whether real or
21 personal, belonging to such operator. The lien shall arise at the time demand is

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1 made by the Commissioner of Taxes and shall continue until the liability for
2 such sum with interest and costs is satisfied or becomes unenforceable. The
3 lien shall have the same force and effect as the lien for taxes withheld under
4 the withholding provisions of the Vermont income tax law, as provided under
5 section 5895 of this title, provided that a lien under this section shall be
6 subordinate to a primary mortgage on the property subject to the fee. Notice of
7 a lien under this section shall be recorded in the land records of the town in
8 which the property is located. Certificates of release of such lien shall also be
9 given by the Commissioner as in the case of the aforesaid tax liens.

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

11 Sec. 18. 32 V.S.A. § 9241(b) is amended to read:

12 (b) An operator shall collect a tax on the sale of each taxable meal at the
13 rate of nine and one-half percent of each full dollar of the total charge and on
14 each sale for less than one dollar and on each part of a dollar in excess of a full
15 dollar in accordance with the following formula:

16 ~~\$0.01-0.11~~ ~~\$0.01~~

17 ~~0.12-0.22~~ ~~0.02~~

18 ~~0.23-0.33~~ ~~0.03~~

19 ~~0.34-0.44~~ ~~0.04~~

20 ~~0.45-0.55~~ ~~0.05~~

21 ~~0.56-0.66~~ ~~0.06~~

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1	0.67-0.77	<u>0.07</u>
2	0.78-0.88	<u>0.08</u>
3	0.89-1.00	<u>0.09</u>
4	\$0.01-0.05	<u>\$0.00</u>
5	0.06-0.15	<u>0.01</u>
6	0.16-0.26	<u>0.02</u>
7	0.27-0.36	<u>0.03</u>
8	0.37-0.47	<u>0.04</u>
9	0.48-0.57	<u>0.05</u>
10	0.58-0.68	<u>0.06</u>
11	0.69-0.78	<u>0.07</u>
12	0.79-0.89	<u>0.08</u>
13	0.90-0.99	<u>0.09</u>

14 (c) An operator shall collect a tax on each sale of alcoholic beverages at the
15 rate of ~~40~~ 10.5 percent of each full dollar of the total charge and on each sale
16 for less than one dollar and on each part of a dollar in excess of a full dollar in
17 accordance with the following formula:

18	\$.01-.14	<u>\$.01</u>
19	.15-.24	<u>.02</u>
20	.25-.34	<u>.03</u>
21	.35-.44	<u>.04</u>

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1	.45-.54	.05
2	.55-.64	.06
3	.65-.74	.07
4	.75-.84	.08
5	.85-.94	.09
6	.95-1.00	.10
7	<u>\$0.01-0.05</u>	<u>\$0.00</u>
8	<u>0.06-0.14</u>	<u>0.01</u>
9	<u>0.15-0.24</u>	<u>0.02</u>
10	<u>0.25-0.33</u>	<u>0.03</u>
11	<u>0.34-0.43</u>	<u>0.04</u>
12	<u>0.44-0.52</u>	<u>0.05</u>
13	<u>0.53-0.69</u>	<u>0.06</u>
14	<u>0.70-0.78</u>	<u>0.07</u>
15	<u>0.79-0.88</u>	<u>0.08</u>
16	<u>0.89-0.99</u>	<u>0.09</u>

17 Sec. 19. 32 V.S.A. § 9242(c) is amended to read:

18 (c) A tax of nine percent of the gross receipts from meals and occupancies,
19 nine and one-half percent of the gross receipts from meals, and ~~10~~ 10.5 percent
20 of the gross receipts from alcoholic beverages, exclusive of taxes collected
21 pursuant to section 9241 of this title, received from occupancy rentals, taxable

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1 meals and alcoholic beverages by an operator, is hereby levied and imposed
2 and shall be paid to the State by the operator as herein provided. Every person
3 required to file a return under this chapter shall, at the time of filing the return,
4 pay the Commissioner the taxes imposed by this chapter as well as all other
5 monies collected by him or her under this chapter; provided, however, that
6 every person who collects the taxes on taxable meals and alcoholic beverages
7 according to the tax bracket schedules of section 9241 of this title shall be
8 allowed to retain any amount lawfully collected by the person in excess of the
9 tax imposed by this chapter as compensation for the keeping of prescribed
10 records and the proper account and remitting of taxes.

11 Sec. 20. 32 V.S.A. § 435 is amended to read:

12 § 435. GENERAL FUND

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

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

18 (1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

19 (2) [Repealed.]

20 (3) Electrical energy tax levied pursuant to chapter 213 of this title;

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1 (4) Corporate income and franchise taxes levied pursuant to chapter 151

2 of this title;

3 (5) Individual income taxes levied pursuant to chapter 151 of this title;

4 (6) All corporation taxes levied pursuant to chapter 211 of this title;

5 (7) ~~Meals~~ 95 percent of the meals and rooms taxes levied pursuant to

6 chapter 225 of this title;

7 (8) [Repealed.]

8 (9) Revenues from the Racing Fund consistent with 31 V.S.A. § 611;

9 (10) 33 percent of the revenue from the property transfer taxes levied
10 pursuant to chapter 231 of this title and the revenue from the gains taxes levied
11 each year pursuant to chapter 236 of this title;

12 (11) 65 percent of the revenue from sales and use taxes levied pursuant
13 to chapter 233 of this title;

14 (12) All other revenues accruing to the State not otherwise required by
15 law to be deposited in any other designated fund or used for any other
16 designated purpose.

17 * * * Ecosystem Restoration Program Fund * * *

18 Sec. 21. 10 V.S.A. § 1285 is added to read:

19 § 1285. ECOSYSTEM RESTORATION PROGRAM FUND

20 (a) Creation of Fund. There is created a special fund in the State Treasury
21 to be known as the “Ecosystem Restoration Program Fund” to be administered

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1 and expended by the Secretary to fund administration and implementation of
2 the Ecosystem Restoration Program. The Secretary may authorize
3 disbursement or expenditures from the Fund for administration of, education
4 and outreach related to, monitoring or, and implementation of project funds
5 under the Ecosystem Restoration Program at the Agency of Natural Resources.

6 (b) Deposits to Fund. There shall be deposited into the Fund:

7 (1) five percent of the meals and rooms tax levied pursuant to chapter
8 225 of this title;

9 (2) the Ecosystem Restoration fee assessed under 32 V.S.A. chapter
10 216.

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

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

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

18 (d) Awards; priority. Grants or loans from the Ecosystem Restoration
19 Program shall be awarded in each fiscal year according to the following
20 priorities:

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

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

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

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

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

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

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

4 Towns collect, nonpayment is lien, is not subordinate to the primary

5 Churches, museums, universities are subject to fee

6 Properties with utility or other assessment exempt

7 **[Special environmental revolving fund efficiency for water]**

8 Sec. **22**. EFFECTIVE DATES

9 (a) This section and Secs. 1–4 (small farm certification), 5 (Agency of
10 Agriculture, Food and Markets corrective action), 6 (livestock exclusion),
11 7 (seasonal exemption for application of manure), 9 (custom applicator
12 certification), 10 (stream alteration), 11 (stormwater compliance; model
13 bylaw), 12 (water quality data coordination), 13 (shoreland contractor
14 certification), 14 (financing; technical assistance for forestry), and
15 16 (agricultural best management practices tax credit) shall take effect on
16 passage.

17 (b) Sec. 8 (agricultural water quality certification) shall take effect on
18 January 1, 2015.

19 (c) Secs. 15 (town road and bridge standards), 17 (Ecosystem Restoration
20 fee), 18–20 (meals and rooms tax) and 21 (Ecosystem Restoration Fund) shall
21 take effect on July 1, 2015.

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1

2

3 (Committee vote: _____)

4

5

Representative [surname]

6

FOR THE COMMITTEE