

[Highlight language = change from previous version]

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.

[Highlight language = change from previous version]

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.

[Highlight language = change from previous version]

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.

[Highlight language = change from previous version]

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, provided that the Secretary may  
19       give first priority for financial assistance under subchapter 3 of this chapter to  
20       any farm other than one identified under subdivision (2) of this subsection

[Highlight language = change from previous version]

1 when the Secretary determines that the farm poses a severe risk to water  
2 quality or a risk of discharge exists which requires immediate abatement.

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

4 § 4860. REVOCATION; ENFORCEMENT

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

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

[Highlight language = change from previous version]

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

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

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

15 § 4810. AUTHORITY; COOPERATION; COORDINATION

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

[Highlight language = change from previous version]

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

[Highlight language = change from previous version]

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

[Highlight language = change from previous version]

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

[Highlight language = change from previous version]

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,

[Highlight language = change from previous version]

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

[Highlight language = change from previous version]

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

[Highlight language = change from previous version]

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 farm permit issued under this chapter, the Secretary of Agriculture, Food  
12 and Markets may require exclusion of livestock from a water of the State  
13 where continued access to the water by livestock poses a high risk of  
14 negatively 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,

[Highlight language = change from previous version]

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.



[Highlight language = change from previous version]

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

[Highlight language = change from previous version]

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 \* \* \* Agricultural Stream Alteration \* \* \*

11 Sec. 10. 6 V.S.A. § 4810a is added to read:

12 §4810a. AGRICULTURAL ACTIVITIES; STREAMS

13 (a) As used in this section:

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

17 (2) “Instream material” means:

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

19 (B) ledge rock; or

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

[Highlight language = change from previous version]

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

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

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

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

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

[Highlight language = change from previous version]

1 excepting such ditches or conveyances that are connected directly with a  
2 stream or river at either end.

3 (b) On or before July 1, 2015, the Secretary s shall amend the accepted  
4 agricultural practices to include requirements for agricultural activities that  
5 alter or impact streams in the State. The accepted agricultural practices for  
6 stream activities shall:

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

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

14 (3) require authorization from the Secretary to establish or construct a  
15 berm in a flood hazard area or river corridor, as those terms are defined in  
16 10 V.S.A. § 752(3) and (11).

17 (c) Prior to issuing an authorization under subdivisions (b)(2) and (3) of  
18 this section, the Secretary shall consult with the Secretary of Natural Resources  
19 regarding appropriate management measures to be used in conducting any  
20 authorized activity.



[Highlight language = change from previous version]

1 and members of the public. The ~~secretary~~ Secretary shall be responsible for  
2 implementation of the program. The ~~secretary's~~ Secretary's stormwater  
3 management program shall include, at a minimum, provisions that:

4 \* \* \*

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

18 \* \* \*

19 (e)(1) Except as otherwise may be provided in subsection (f) of this  
20 section, the Secretary shall, for new stormwater discharges, require a permit  
21 for discharge of, regulated stormwater runoff consistent with, at a minimum,

[Highlight language = change from previous version]

1 the 2002 Stormwater Management Manual. The Secretary may issue,  
2 condition, modify, revoke, or deny discharge permits for regulated stormwater  
3 runoff, as necessary to assure achievement of the goals of the program and  
4 compliance with State law and the federal Clean Water Act. The permit shall  
5 specify the use of best management practices to control regulated stormwater  
6 runoff. The permit shall require as a condition of approval, proper operation,  
7 and maintenance of any stormwater management facility and submittal by the  
8 permittee of an annual inspection report on the operation, maintenance, and  
9 condition of the stormwater management system. The permit shall contain  
10 additional conditions, requirements, and restrictions as the Secretary deems  
11 necessary to achieve and maintain compliance with the water quality standards,  
12 including requirements concerning recording, reporting, and monitoring the  
13 effects on receiving waters due to operation and maintenance of stormwater  
14 management facilities.

15 \* \* \*

16 (4) Prior to renewal of a permit or coverage under a general permit, but  
17 no less frequently than every five years, the Secretary shall, as a condition of a  
18 permit issued under this section, require a permittee to conduct a compliance  
19 audit. The audit shall be conducted by an independent third party. The audit  
20 shall evaluate the permittee's compliance with the permit conditions and the  
21 adequacy of the performance of any best management practice or stormwater

[Highlight language = change from previous version]

1 treatment infrastructure authorized under the permit. The third party auditor  
2 shall submit the audit results to the Secretary. The Secretary shall post all  
3 audit results on the website of the Agency of Natural Resources.

4 \* \* \*

5 \* \* \* Water Quality Data Coordination \* \* \*

6 Sec. 12. 10 V.S.A. § 1284 is added to read:

7 § 1284. WATER QUALITY DATA COORDINATION

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

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

13 (2) stream gauge data;

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

15 (4) water quality monitoring or sampling data;

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

19 (6) any other data available to the Secretary.

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

[Highlight language = change from previous version]

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

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

6                                   \* \* \* Shoreland Contractor Certification \* \* \*

7           Sec. 13. 10 V.S.A. § 1429 is added to read:

8           § 1429. SHORELAND CONTRACTOR; CERTIFICATION

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

10           (1) “Impervious surface” shall have the same meaning as in section  
11           1264 of this title.

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

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

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

20           (b) Required certification. Beginning January 1, 2015, a person shall not  
21           disturb soil, clear vegetation, or construct impervious surface of more than 500

[Highlight language = change from previous version]

1 square feet in a shoreland area unless a person certified in erosion control  
2 practices by the Secretary is:

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

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

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

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

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

15 (d) The requirements of this section shall not apply to agricultural activities  
16 that comply with the rules adopted by the Secretary of Agriculture, Food and  
17 Markets under 6 V.S.A. chapter 215, regarding agricultural water quality,  
18 including accepted agricultural practices, best management practices, animal  
19 waste permits, and large farm permits.

[Highlight language = change from previous version]

1 \* \* \* Forestry Practices \* \* \*

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

3 FORESTRY; PORTABLE SKIDDER PROJECT

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

10 \* \* \* Town Road and Bridge Standards \* \* \*

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

12 § 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

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

[Highlight language = change from previous version]

1 structures projects receiving funds pursuant to this subsection shall be the  
2 responsibility of the applicant municipality.

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

14 \* \* \*

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

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

17 § 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX

18 CREDIT

19 (a) A taxpayer of this State who is engaged in the business of farming or  
20 who is implementing a nutrient management plan approved by the Secretary of  
21 Agriculture, Food and Markets may claim a credit against his or her income

[Highlight language = change from previous version]

1 taxes imposed by this chapter in an amount equal to 25 percent of the first  
2 \$70,000.00 expended by the taxpayer for an agricultural best management  
3 practice approved by the Secretary of Agriculture, Food and Markets under  
4 6 V.S.A. chapter 215, provided that that the credit shall not exceed the liability  
5 of the taxpayer under this chapter for the year in which the credit is claimed.

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

8 (1) manage the waste from livestock, as that term is defined in 6 V.S.A.  
9 § 761;

10 (2) control soil erosion;

11 (3) nutrient and sediment filtration and detention;

12 (4) nutrient management planning; and

13 (5) pest and pesticide handling.

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

19 (d) The credit under this section shall be available only for the tax year in  
20 which the project was completed, as certified by the Secretary of Agriculture,  
21 Food and Markets. Any taxpayer claiming a credit under this section shall not

[Highlight language = change from previous version]

1 claim a credit under any similar State law for costs related to the same eligible  
2 practices.

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

8 (f) As used in this section, “engaged in the business of farming” means a  
9 taxpayer earns at least one-half of his or her annual gross income from the  
10 business of farming, as that term is defined in the Internal Revenue Code,  
11 26 C.F.R. § 1.175-3

12 \* \* \* Ecosystem Restoration Fee \* \* \*

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

14 CHAPTER 216. ECOSYSTEM RESTORATION FEE

15 § 8731. ECOSYSTEM RESTORATION FEE

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

17 (1) “Homestead” shall have the same meaning as set forth subdivision  
18 5401(7) of this title.

19 (2) “Non-residential property” means all property that is not homestead  
20 property, including property exempt from taxation under section 3802 of this  
21 title, chapter 135 of this title, or by municipal vote.

[Highlight language = change from previous version]

1       **(b)** Creation of fee. There is assessed a fee, known as the Ecosystem  
2       Restoration fee, on all developed property in the State for the support of the  
3       Ecosystem Restoration Program Fund and its purposes as set forth under  
4       10 V.S.A. § 1287.

5       **(c)** Amount of fee. The Ecosystem Restoration fee shall be:

6             (1) \$10.00 per parcel for all **homestead** property;

7             (2) \$20.00 per parcel for all nonresidential property.

8       **(d)** Applicability of fee. Properties in the following municipalities shall be  
9       exempt from the fee assessed under this chapter:

10            **(1)** a municipality that has established or is a member of a system  
11            or utility under 24 V.S.A. chapter 97 for the treatment or disposal  
12            of stormwater; or

13            **(2)** a municipality that has enacted zoning bylaws, a municipal  
14            ordinance, or other mechanism that the Secretary of Natural Resources  
15            approves as functionally equivalent to a system or utility established under  
16            24 V.S.A. chapter 97.

17       **(e)** Collection of fee. Beginning on July 1, 2016, the Ecosystem  
18       Restoration fee shall be assessed and collected as part of the tax bill issued  
19       under 32 V.S.A. § 5402(b). The treasurer of each municipality shall remit the  
20       collected Ecosystem Restoration fees to the State Treasurer according to the  
21       municipality's property tax payments schedule. **The State Treasurer shall**

[Highlight language = change from previous version]

1 deposit the collected fees in the Ecosystem Restoration Program Fund. The  
2 Department of Taxes shall specify the form or format for the remission of the  
3 collected fees.

4 (f) Lien. If a property owner required to pay and transmit a fee under this  
5 chapter neglects or refuses to pay the same after demand, the amount, together  
6 with any costs that may accrue in addition thereto, shall be a lien in favor of  
7 the State of Vermont upon all property and rights to property, whether real or  
8 personal, belonging to such operator. The lien shall arise at the time demand is  
9 made by the Commissioner of Taxes and shall continue until the liability for  
10 such sum with interest and costs is satisfied or becomes unenforceable. The  
11 lien shall have the same force and effect as the lien for taxes withheld under  
12 the withholding provisions of the Vermont income tax law, as provided under  
13 section 5895 of this title, provided that a lien under this section shall be  
14 subordinate to a primary mortgage on the property subject to the fee. Notice of  
15 a lien under this section shall be recorded in the land records of the town in  
16 which the property is located. Certificates of release of such lien shall also be  
17 given by the Commissioner as in the case of the aforesaid tax liens.

[Highlight language = change from previous version]

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

2           Sec. 18. 32 V.S.A. § 9241 is amended to read:

3           § 9241. IMPOSITION OF TAX

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

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

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

[Highlight language = change from previous version]

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

8 \* \* \*

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

10 (c) A tax of nine and one-half percent of the gross receipts from ~~meals and~~  
11 occupancies, nine and one-half percent of the gross receipts from meals, and  
12 10 percent of the gross receipts from alcoholic beverages, exclusive of taxes  
13 collected pursuant to section 9241 of this title, received from occupancy  
14 rentals, taxable meals and alcoholic beverages by an operator, is hereby levied  
15 and imposed and shall be paid to the State by the operator as herein provided.  
16 Every person required to file a return under this chapter shall, at the time of  
17 filing the return, pay the Commissioner the taxes imposed by this chapter as  
18 well as all other monies collected by him or her under this chapter; provided,  
19 however, that every person who collects the taxes on taxable meals and  
20 alcoholic beverages according to the tax bracket schedules of section 9241 of  
21 this title shall be allowed to retain any amount lawfully collected by the person

[Highlight language = change from previous version]

1 in excess of the tax imposed by this chapter as compensation for the keeping of  
2 prescribed records and the proper account and remitting of taxes.

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

4 § 435. GENERAL FUND

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

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

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

11 (2) [Repealed.]

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

13 (4) Corporate income and franchise taxes levied pursuant to chapter 151  
14 of this title;

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

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

17 (7) ~~Meals~~ 95 percent of the meals and rooms taxes levied pursuant to  
18 chapter 225 of this title;

19 (8) [Repealed.]

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

21 609;

[Highlight language = change from previous version]

1 (10) 33 percent of the revenue from the property transfer taxes levied  
2 pursuant to chapter 231 of this title and the revenue from the gains taxes levied  
3 each year pursuant to chapter 236 of this title;

4 (11) 65 percent of the revenue from sales and use taxes levied pursuant  
5 to chapter 233 of this title;

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

9 \* \* \* Ecosystem Restoration Program Fund \* \* \*

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

11 § 1285. ECOSYSTEM RESTORATION PROGRAM FUND

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

16 accounts: the Capital Account and the Administrative Account.

17 (b) Deposits to accounts:

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

19 (A) appropriations by the General Assembly to the Vermont

20 Environmental Protection Agency (EPA) Pollution Control Revolving

21 Fund; and

[Highlight language = change from previous version]

1           (B) appropriations by the General Assembly for any other capital  
2 construction related to water pollution control.

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

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

6           (B) the Ecosystem Restoration fee assessed under 32 V.S.A. chapter  
7 216; and

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

9           (c) Disbursements from the Fund.

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

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

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

[Highlight language = change from previous version]

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

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

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

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

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

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

18 (f) Secretary discretion. The Secretary may award financial assistance  
19 under this section for a project or program that otherwise would not receive  
20 assistance under the priorities established by this section when the Secretary

[Highlight language = change from previous version]

1 determines a severe risk to water quality or risk of discharge exists which  
2 requires immediate abatement.

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

6 Sec. 22. EFFECTIVE DATES

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

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

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

20

21

[Highlight language = change from previous version]

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

2

\_\_\_\_\_

3

Representative [surname]

4

FOR THE COMMITTEE