

1 TO THE HOUSE OF REPRESENTATIVES:

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

7 \* \* \* Findings; Agricultural Water Quality \* \* \*

8 Sec. 1. FINDINGS AND PURPOSE; AGRICULTURAL WATER QUALITY

9 (a) Findings. For the purpose of Secs. 1–9a of this act, the General  
10 Assembly finds that:

11 (1) Significant State, federal, and private financial resources have been  
12 expended over the past 20 years to address water quality issues in the State of  
13 Vermont, such as the cleanup of Lake Champlain.

14 (2) Despite significant funding and efforts to address the State’s water  
15 quality issues, insufficient progress has been made.

16 (3) The U.S. Environmental Protection Agency (EPA) revoked approval  
17 of the initial total maximum daily load (TMDL) plan for Lake Champlain  
18 despite the State’s reaching one-third of the TMDL’s goal in less than  
19 10 years.

1           (4) EPA is in the process of developing a new TMDL for Lake  
2           Champlain, but Vermont may be responsible for the large majority of  
3           implementation costs.

4           (5) Much of the responsibility and cost for meeting the new EPA TMDL  
5           may fall on Vermont’s farmers, who likely will be subject to additional  
6           requirements under the accepted agricultural practices (AAPs) and other  
7           agricultural water quality rules.

8           (6) Although the AAP rules were adopted in 1995, there is a general  
9           lack of awareness in the “small farm” community about the AAPs, and the  
10          Agency of Agriculture, Food and Markets should educate small farm operators  
11          in the State concerning the requirements of the AAPs.

12          (7) The Vermont agricultural community recognizes that it has a role to  
13          play in the future efforts to reduce nutrient loading and improve water quality  
14          in the State, but additional State and federal assistance is necessary to fulfill  
15          this role successfully, including technical and financial assistance to encourage  
16          small farms to adopt and implement nutrient management plans.

17          (b) Purpose. It is the purpose of Secs. 1–9a of this act to:

18               (1) improve the quality of the waters of Vermont;

19               (2) authorize proactive measures designed to implement and ultimately  
20          meet the impending TMDL for Lake Champlain and improve water quality  
21          across the State;



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

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

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

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

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

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

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

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

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

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

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

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

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

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

6           (5) Require notice to the Secretary of a change of ownership or a change  
7           of operator of a small farm and the time frame by which a new owner or  
8           operator shall be required to certify compliance with the accepted agricultural  
9           practices under this section.

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

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

19          (3) Notwithstanding the requirements of section 4823 of this title, farms  
20          identified under subdivision (2) of this subsection in the greatest level of need  
21          in order to come into compliance with the accepted agricultural practices shall

1 be given first priority for State financial assistance under subchapter 3 of this  
2 chapter, provided that the Secretary may give first priority for financial  
3 assistance to any farm other than one identified under subdivision (2) of this  
4 subsection when the Secretary determines that a farm needs assistance to  
5 address a water quality issue that requires immediate abatement.

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

7 § 4860. REVOCATION; ENFORCEMENT

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

1 (b) Any person who violates any provision of this subchapter or who fails  
2 to comply with any order or the terms of any permit or certification issued in  
3 accordance with this subchapter shall be fined not more than \$10,000.00 for  
4 each violation. Each violation may be a separate offense and, in the case of a  
5 continuing violation, each day's continuance may be deemed a separate  
6 offense.

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

17 Sec. 4. 6 V.S.A. § 4810 is amended to read:

18 § 4810. AUTHORITY; COOPERATION; COORDINATION

19 (a) Agricultural land use practices. In accordance with 10 V.S.A.  
20 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.  
21 chapter 25 of ~~Title 3~~, and shall implement and enforce agricultural land use

1 practices in order to reduce the amount of agricultural pollutants entering the  
2 waters of the ~~state~~ State. These agricultural land use practices shall be created  
3 in two categories, pursuant to subdivisions (1) and (2) of this subsection.

4 (1) “Accepted Agricultural Practices” (AAPs) shall be standards to be  
5 followed in conducting agricultural activities in this ~~state~~ State. These  
6 standards shall address activities which have a potential for causing pollutants  
7 to enter the groundwater and waters of the ~~state~~ State, including dairy and  
8 other livestock operations plus all forms of crop and nursery operations and  
9 on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902,  
10 livestock and poultry slaughter and processing activities. The AAPs shall  
11 include, as well as promote and encourage, practices for farmers in preventing  
12 pollutants from entering the groundwater and waters of the ~~state~~ State when  
13 engaged in, ~~but not limited to~~, animal waste management and disposal, soil  
14 amendment applications, plant fertilization, and pest and weed control.

15 Persons engaged in farming, as defined in 10 V.S.A. § 6001, who follow these  
16 practices shall be presumed to be in compliance with water quality standards.

17 AAPs shall be practical and cost effective to implement. The AAPs for  
18 groundwater shall include a process under which the ~~agency~~ Agency shall  
19 receive, investigate, and respond to a complaint that a farm has contaminated  
20 the drinking water or groundwater of a property owner.

1           (2) “Best Management Practices” (BMPs) may be required by the  
2 ~~secretary~~ Secretary on a ~~case-by-case~~ case-by-case basis. Before requiring  
3 BMPs, the ~~secretary~~ Secretary shall determine that sufficient financial  
4 assistance is available to assist farmers in achieving compliance with  
5 applicable BMPs. BMPs shall be practical and cost effective to implement.

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

1 and the relationship between the requirements of the federal program and the  
2 ~~state~~ State agricultural water quality requirements for large, medium, and small  
3 farms under chapter 215 of this title. The memorandum of understanding shall  
4 describe program administration, permit issuance, an appellate process, and  
5 enforcement authority and implementation. The memorandum of  
6 understanding shall be consistent with the federal National Pollutant Discharge  
7 Elimination System permit regulations for discharges from concentrated  
8 animal feeding operations. The allocation of duties under this chapter between  
9 the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food  
10 and Markets and the ~~secretary of natural resources~~ Secretary of Natural  
11 Resources shall be consistent with the ~~secretary's~~ Secretary's duties,  
12 established under the provisions of 10 V.S.A. § 1258(b), to comply with Public  
13 Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural  
14 Resources shall be the ~~state~~ State lead person in applying for federal funds  
15 under Public Law 92-500, but shall consult with the ~~secretary of agriculture,~~  
16 ~~food and markets~~ Secretary of Agriculture, Food and Markets during the  
17 process. The agricultural non-point source program may compete with other  
18 programs for competitive watershed projects funded from federal funds. The  
19 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and  
20 Markets shall be represented in reviewing these projects for funding. Actions  
21 by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,

1 Food and Markets under this chapter concerning agricultural non-point source  
2 pollution shall be consistent with the water quality standards and water  
3 pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the  
4 federal Clean Water Act as amended. In addition, the ~~secretary of agriculture,~~  
5 ~~food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate  
6 with the ~~secretary of natural resources~~ Secretary of Natural Resources in  
7 implementing and enforcing programs, plans, and practices developed for the  
8 proper management of composting facilities when those facilities are located  
9 on a farm.

10 (c) On or before January 1, 2017, the Secretary of Agriculture, Food and  
11 Markets shall amend by rule the accepted agricultural practices required under  
12 this section to include requirements for the certification of small farms under  
13 section 4858a of this title. The rules adopted under this section shall be at least  
14 as stringent as the requirements of section 4858a of this title.

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,

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

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

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 violating  
8 the accepted agricultural practices.

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 violating  
14 the accepted agricultural practices.

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

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

17 § 4816. SEASONAL APPLICATION OF MANURE

18 (a) Unless authorized under subsection (b) of this section, a person shall  
19 not apply manure to land in the State:

20 (1) between December 15 and April 1 of any calendar year; or

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

4           (b) Seasonal exemption.

5           (1) The Secretary of Agriculture, Food and Market may authorize an  
6           exemption to the prohibition on the application of manure to land in the State  
7           between December 15 and April 1 of any calendar year or during any period  
8           established under subsection (c) of this section when manure is prohibited from  
9           application. An exemption issued under this section may authorize land  
10           application of manure on a weekly, monthly, or seasonal basis or in authorized  
11           regions, areas, or fields in the State, provided that the requirements of  
12           subdivision (2) of this subsection are complied with.

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

14           (A) prohibit application of manure:

15           (i) in areas with established channels of concentrated stormwater  
16           runoff to surface waters, including ditches and ravines;

17           (ii) in nonharvested permanent vegetative buffers;

18           (iii) in a nonfarmed wetland, as that term is defined in 10 V.S.A.  
19           § 902(5);

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

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

2                   (vi) to saturated soils;

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

6                   (C) require manure to be applied according to a nutrient management  
7 plan; and

8                   (D) establish the maximum tons of manure that may be applied per  
9 acre during any one application.

10                  (c) Restriction on application. The Secretary of Agriculture, Food and  
11 Markets may by procedure prohibit the application of manure to land in the  
12 State between December 1 and December 15 and April 1 and April 30 of any  
13 calendar year when the Secretary determines that due to weather conditions,  
14 soil conditions, or other limitations, application of manure to land would pose  
15 a significant potential of discharge or runoff to State waters.

16                                  \* \* \* Agricultural Water Quality; Training \* \* \*

17                  Sec. 8. 6 V.S.A. chapter 215, subchapter 9 is added to read:

18                                  Subchapter 9. Agricultural Water Quality Certification Training

19                                  § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

20                                  TRAINING; RULEMAKING

1           (a) On or before January 1, 2017, the Secretary of Agriculture, Food and  
2           Markets shall adopt by procedure requirements for training classes or programs  
3           for owners or operators of small farms, medium farms, or large farms certified  
4           or permitted under this chapter regarding:

5                   (1) the prevention of discharges, as that term is defined in 10 V.S.A.  
6                   § 1251(3); and

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

9           (b) Any training required by procedure under this section shall:

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

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

15                                   \* \* \* Agricultural Water Quality;

16                                   Certification of Custom Applicators \* \* \*

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

18                   Subchapter 10. Certification of Custom Applicators of Manure,

19                                   Nutrients, or Sludge

20           § 4987. DEFINITIONS

21           As used in this subchapter:

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

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

6           (3) “Seasonal employee” means a person who:

7                   (A) works for a custom applicator for 20 weeks or fewer in a  
8                   calendar year; and

9                   (B) works in a job scheduled to last 20 weeks or fewer.

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

14           § 4988. CERTIFICATION OF CUSTOM APPLICATOR

15           (a) On or before January 1, 2016, the Secretary of Agriculture, Food and  
16           Markets shall adopt by rule a process by which a custom applicator shall be  
17           certified to operate within the State. The certification process shall require a  
18           custom applicator to complete eight hours of training over each five-year  
19           period regarding:

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

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

3           (b) Beginning January 1, 2017, a custom applicator shall not apply manure,  
4           nutrients, or sludge unless certified by the Secretary of Agriculture, Food and  
5           Markets.

6           (c) A custom applicator certified under this section may train seasonal  
7           employees in methods or techniques to minimize runoff to surface waters and  
8           to identify weather or soil conditions that increase the risk of runoff. A custom  
9           applicator that trains a seasonal employee under this subsection shall be liable  
10           for damages done and liabilities incurred by a seasonal employee who  
11           improperly applies manure, nutrients, or sludge.

12           (d) The requirements of this section shall not apply to an owner or operator  
13           of a farm applying manure, nutrients, or sludge to a field that he or she owns or  
14           controls.

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

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

17           § 4810a. AGRICULTURAL ACTIVITIES; STREAMS

18           (a) As used in this section:

19                   (1) “Instream material” means:

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

21                           (B) ledge rock; or

1           (C) large woody debris in the bed of a perennial stream or within the  
2 banks of a perennial stream.

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

5           (3) “Large woody debris” means any piece of wood within a perennial  
6 stream with a diameter of 10 or more inches and a length of 10 or more feet  
7 that is detached from the soil where it grew.

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

15           (5) “Secretary” means the Secretary of Agriculture, Food and Markets.

16           (6) “Stream” means a current of water that flows at any time at a rate of  
17 less than 1.5 cubic feet per second and exhibits evidence of sediment transport.  
18 A stream shall include the full length and width, including the bed and banks  
19 of any watercourse, including rivers, streams, creeks, brooks, and branches,  
20 which experience perennial flow. “Stream” shall not include swales, roadside

1 ditches, or ditches or other constructed channels primarily associated with land  
2 drainage or water conveyance through or around private infrastructure.

3 (b) On or before January 1, 2017, the Secretary 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 waste in a stream; and

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

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

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

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

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

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



1 Committees on Fish, Wildlife and Water Resources and on Natural Resources  
2 and Energy and to the Senate Committee on Natural Resources and Energy. In  
3 developing the program, the ~~secretary~~ Secretary shall consult with ~~the board,~~  
4 affected municipalities, regional entities, other ~~state~~ State and federal agencies,  
5 and members of the public. The ~~secretary~~ Secretary shall be responsible for  
6 implementation of the program. The ~~secretary's~~ Secretary's stormwater  
7 management program shall include, at a minimum, provisions that:

8 \* \* \*

9 (12) Encourage municipal governments to utilize existing regulatory and  
10 planning authority to implement improved stormwater management by  
11 providing technical assistance, training, research and coordination with respect  
12 to stormwater management technology, and by preparing and distributing a  
13 model local stormwater management ordinance or bylaw. Beginning on  
14 July 1, 2015, the Secretary annually shall provide municipalities with outreach  
15 and education through published materials or training courses regarding the  
16 environmental and municipal benefits of adoption of a local stormwater  
17 management ordinance or bylaw. The stream alteration training and education  
18 activities required under subsection 1023(d) of this title and any education and  
19 outreach conducted under this subdivision (12) shall inform municipalities of  
20 model stormwater management ordinances or bylaws that are available in the  
21 State.

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\* \* \*

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

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

§ 1284. WATER QUALITY DATA COORDINATION

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

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

(2) stream gauge data;

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

(4) water quality monitoring or sampling data;

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

(6) any other data available to the Secretary.

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

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

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

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

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

7           Sec. 12. VOLUNTARY SHORELAND EROSION CONTROL  
8                           CERTIFICATION PROGRAM

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

10           (1) “Impervious surface” shall have the same meaning as in 10 V.S.A.  
11           § 1264.

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) Voluntary certification. The Agency of Natural Resources, in  
21           consultation with the Associated General Contractors of Vermont, shall

1 develop an optional shoreland erosion control certification program to begin on  
2 January 1, 2016. The program shall include training related to the disturbance  
3 of soil, clearance of vegetation, and construction of impervious surfaces of  
4 more than 1,000 square feet in a shoreland area. The voluntary certification  
5 program shall end on January 1, 2019.

6 (c) Report. On or before January 1, 2018, the Agency of Natural Resources  
7 shall report to the House and Senate Committees on Natural Resources and  
8 Energy and the House Committee on Fish, Wildlife and Water Resources  
9 regarding the voluntary shoreland erosion control certification program created  
10 in subsection (b) of this section. The report shall include:

11 (1) a general summary of the program's success, including an overview  
12 of shoreland projects constructed by certified persons;

13 (2) the number of persons certified under the certification program;

14 (3) a recommendation of whether the State should continue the  
15 voluntary certification program, including whether to make the program  
16 mandatory; and

17 (4) any other recommendations for improving the program.

18 (d) The requirements of this section shall not apply to the owner or  
19 operator of a farm conducting agricultural activities on the farm that comply  
20 with the rules adopted by the Secretary of Agriculture, Food and Markets  
21 under 6 V.S.A. chapter 215, regarding agricultural water quality, including

1 accepted agricultural practices, best management practices, animal waste  
2 permits, and large farm permits. The requirements of this section shall apply  
3 to a person, other than an employee of the owner or operator of the farm, who  
4 charges for the service of tillage, harvesting, or other agricultural activity that  
5 disturbs soil, clears vegetation, or constructs an impervious surface of more  
6 than 500 square feet in a shoreland area.

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

8 Sec. 13. AGENCY OF NATURAL RESOURCES REPORT ON WATER  
9 QUALITY FINANCING

10 On or before January 15, 2015, the Secretary of Natural Resources, after  
11 consultation with the Joint Fiscal Office, the Secretary of Agriculture, Food  
12 and Markets, and the Secretary of Transportation, shall submit to the Senate  
13 and House Committees on Natural Resources and Energy, the House  
14 Committee on Fish, Wildlife and Water Resources, the House Committee on  
15 Ways and Means, the Senate Committee on Finance, and the Senate and House  
16 Committees on Appropriations a report that provides recommendations for  
17 establishing financing mechanisms for the requirements of this act and other  
18 State actions to improve the quality of State waters. The report shall include:

19 (1) a summary of the anticipated costs for each agency to implement the  
20 requirements of this act;

1           (2) a summary and analysis of existing State tax expenditures that affect  
2           State water quality;

3           (3) a recommendation for a financing mechanism that assesses property  
4           owners in the State based on the property's impact on water quality;

5           (4) at least two alternative financing mechanisms in addition to the  
6           recommendation under subdivision (4) of this section, which may include a  
7           recommendation for an excise tax;

8           (5) a summary of how each recommended financing mechanism would  
9           be implemented, including administration and enforcement; and

10           (6) an estimated amount of revenue that each recommended financing  
11           proposal would generate.

12           Sec. 14. EFFECTIVE DATES

13           (a) This section and Secs. 1 (agricultural findings), 2–4 (small farm  
14           certification rules), 5 (Agency of Agriculture, Food and Markets corrective  
15           action), 6 (livestock exclusion), 7 (seasonal exemption for application of  
16           manure), 9 (custom applicator certification), 9a (agricultural stream alteration),  
17           10 (stormwater model bylaw), 11 (water quality data coordination), 12  
18           (shoreland contractor certification), and 13 (water quality restoration financing  
19           report) shall take effect on passage.

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

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

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Representative

FOR THE COMMITTEE