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1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on House Committee on Fish, Wildlife and Water
3 Resources to which was referred House Bill No. 35 entitled “An act relating to
4 improving the quality of State waters” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 * * * Purpose * * *

8 Sec. 1. PURPOSE; IMPROVEMENT OF WATER QUALITY

9 It is the purpose of this act to:

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

11 (2) authorize and prioritize proactive measures designed to implement
12 and meet the impending total maximum daily load (TMDL) plan for Lake
13 Champlain, meet impending TMDL plans for other State waters, and improve
14 water quality across the State;

15 (3) identify and prioritize cost-effective strategies for the State to
16 address water quality issues; and

17 (4) engage more municipalities, agricultural operations, businesses, and
18 other interested parties as part of the State’s efforts to improve the quality of
19 the waters of the State.

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1 (5) provide mechanisms, staffing, and financing necessary for State
2 waters to achieve and maintain compliance with the Vermont water quality
3 standards.

4 * * * Agricultural Water Quality;

5 Definitions * * *

6 Sec. 2. 6 V.S.A. § 4802 is amended to read:

7 § 4802. ~~DEFINITION~~ DEFINITIONS

8 ~~For purposes of~~ As used in this chapter, the word “secretary,” when used by
9 ~~itself, means the secretary of agriculture, food and markets;~~

10 (1) “Agency” means the Agency of Agriculture, Food and Markets.

11 (2) “Farming” shall have the same meaning as used in 10 V.S.A.

12 § 6001(22).

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

14 (4) “Top of bank” means the point along the bank of a stream where an
15 abrupt change in slope is evident, and where the stream is generally able to
16 overflow the banks and enter the adjacent floodplain during an annual flood
17 event. Annual flood event shall be determined according to the Agency of
18 Natural Resources’ Flood Hazard Area and River Corridor Protection
19 Procedure.

20 (5) “Waste” or “agricultural waste” means material originating or
21 emanating from a farm that is determined by the Secretary or the Secretary of

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1 Natural Resources to be harmful to the waters of the State, including:
2 sediments; minerals, including heavy metals; plant nutrients; pesticides;
3 organic wastes, including livestock waste, animal mortalities, compost, feed
4 and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution;
5 silage runoff; untreated milkhouse waste; and any other farm waste as the term
6 “waste” is defined in 10 V.S.A. § 1251 (12).

7 (6) “Water” shall have the same meaning as used in 10 V.S.A.
8 § 1251(13).

9 * * * Agricultural Water Quality;

10 Small Farm Certification and Inspection * * *

11 Sec. 3. 6 V.S.A. § 4858a is added to read:

12 § 4858a. SMALL FARM CERTIFICATION

13 (a) Required small farm certification. A person who owns or operates a
14 small farm shall, on a form provided by the Secretary, certify compliance with
15 the accepted agricultural practices. The Secretary of Agriculture, Food and
16 Markets shall establish the requirements and manner of certification of
17 compliance with the accepted agricultural practices, provided that the
18 Secretary shall require an owner or operator of a farm to submit a certification
19 of compliance with the accepted agricultural practices at least once every five
20 years.

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1 (b) Rulemaking; small farm certification. The Secretary of Agriculture,
2 Food and Markets shall adopt by rule requirements for a small farm
3 certification of compliance with the accepted agricultural practices. The rules
4 required by this subsection shall be adopted as part of the accepted agricultural
5 practices under section 4810 of this title.

6 (c) Small farm inspection. The Secretary may inspect a small farm in the
7 State at any time for the purposes of assessing compliance by the small farm
8 with the accepted agricultural practices and determining consistency with a
9 certification of compliance submitted by the person who owns or operates the
10 small farm. The Secretary may prioritize inspections of small farms in the
11 State based on identified water quality issues posed by a small farm.

12 (d) Notice of change of ownership or change of lease. A person who owns
13 or leases a small farm shall notify the Secretary of a change of ownership or
14 change of lessee of a small farm within 30 days of the change. The
15 notification shall include the certification of small farm compliance required
16 under subsection (a) of this section.

17 (e)(1) Identification; ranking of water quality needs. During an inspection
18 of a small farm under this section, the Secretary shall identify areas where the
19 farm could benefit from capital, structural, or technical assistance in order to
20 improve or come into compliance with the accepted agricultural practices and

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1 any applicable State water quality permit or certification required under this
2 chapter.

3 (2) Notwithstanding the priority system established under section 4823
4 of this title, the Secretary annually shall establish a priority ranking system for
5 small farms according to the water quality benefit associated with the capital,
6 structural, or technical improvements identified as needed by the Secretary
7 during an inspection of the farm.

8 (3) Notwithstanding the priority system established by subdivision (2) of
9 this subsection, the Secretary may provide financial assistance to a small farm
10 at any time, regardless of the priority ranking system, if the Secretary
11 determines that the farm needs assistance to address a water quality issue that
12 requires immediate abatement.

13 Sec. 4. 6 V.S.A. § 4810a is added to read:

14 § 4810a. ACCEPTABLE AGRICULTURAL PRACTICES; REVISION

15 (a) On or before July 1, 2016 the Secretary of Agriculture, Food, and
16 Markets shall amend the accepted agricultural practices in order to improve
17 water quality in the State, assure practices on all farms eliminate adverse
18 impacts to water quality, and implement the small farm certification program
19 required by section 4858a of this title. At a minimum, the amendments to the
20 accepted agricultural practices shall:

21 (1) Specify and define those farms that:

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1 (A) shall be required to comply with the small certification
2 requirements under section 4858a of this title; and

3 (B) shall be subject to the accepted agricultural practices, but shall
4 not be required to comply with small farm certification requirements under
5 section 4858a of this title.

6 (2)(A) Prohibit a farm from stacking manure, storing fertilizer, or
7 storing other nutrients on the farm:

8 (i) in a manner and location that presents a threat of discharge to a
9 water of the State or presents a threat of contamination to groundwater;

10 (ii) on lands in a floodway or otherwise subject to regular
11 flooding.

12 (B) In no case shall manure stacking sites, fertilizer storage, or other
13 nutrient storage be located within 100 feet of a private well or within 100 feet
14 of a water of the State.

15 (3) Require the construction and management of barnyards, waste
16 management systems, animal holding areas, and production areas in a manner
17 to prevent runoff of waste to a surface water, to groundwater, or across
18 property boundaries.

19 (4) Establish standards for nutrient management on farms, including
20 required nutrient management planning on all farms that manage agricultural
21 wastes.

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1 (5) Require cropland on the farm to be cultivated in a manner that
2 results in an average soil loss of less than or equal to the soil loss tolerance for
3 the prevalent soil, known as 1T, as calculated through application of the
4 Revised Universal Soil Loss Equation, or through the application of similarly
5 accepted models.

6 (6) Require a farm to comply with standards established by the
7 Secretary for maintaining a vegetative buffer zone of perennial vegetation
8 between annual croplands and the top of the bank of an adjoining water of the
9 State. At a minimum the vegetative buffer standards established by the
10 Secretary shall prohibit the application of manure on the farm within 25 feet of
11 the top of the bank of an adjoining water of the State or within 10 feet of a
12 ditch.

13 (7) Prohibit the construction or siting of a farm structure for the storage
14 of manure, fertilizer, or pesticide storage within a floodway area identified on a
15 National Flood Insurance Program Map on file with a town clerk.

16 (8) Regulate, in a manner consistent with the Agency of Natural
17 Resources' flood hazard area and river corridor rules, the construction or siting
18 of a farm structure or the storage of manure, fertilizer, or pesticides storage
19 within a river corridor designated by the Secretary of Natural Resources.

20 (9) Establish standards for the exclusion of livestock from the waters of
21 the State to prevent erosion and adverse water quality impacts.

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1 (10) Establish standards for the management of subsurface agriculture
2 tile drainage consistent with subsection (b) of this section.

3 (b) On or before January 15, 2018, the Secretary of Agriculture, Food and
4 Markets shall amend the accepted agricultural practices in order to include
5 requirements for reducing nutrient contribution to waters of the State from
6 subsurface tile drainage. Upon adoption of requirements for subsurface tile
7 drainage, the Secretary may require an existing subsurface tile drain to comply
8 with the requirements of the AAPs for subsurface tile drainage upon a
9 determination that compliance is necessary to reduce adverse impacts to water
10 quality from the subsurface tile drain.

11 Sec. 5. **REPORT ON MANAGEMENT OF SUBSURFACE TILE**
12 **DRAINAGE**

13 (a) The Secretary of Agriculture, Food and Markets and the Secretary of
14 Natural Resources, after consultation with the U.S. Department of
15 Agriculture’s Natural Resource Conservation Service, shall submit a joint
16 report to the House Committee on Fish, Wildlife and Water Resources, the
17 Senate Committee on Natural Resources and Energy, the House Committee on
18 Agriculture and Forest Products, and the Senate Committee on Agriculture
19 regarding the status of current, scientific research relating to the environmental
20 management of subsurface agriculture tile drainage and how subsurface
21 agriculture tile drainage contributes to nutrient loading of surface waters. The

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1 report shall include a recommendation from the Secretary of Agriculture, Food
2 and Markets and the Secretary of Natural Resources regarding how best to
3 manage subsurface agriculture tile drainage in the State in order to mitigate
4 and prevent the contribution of tile drainage to waters of the State.

5 (b) On or before January 15, 2016, the Secretary of Agriculture, Food and
6 Markets and the Secretary of Natural Resources shall submit an interim report
7 that summarizes the progress of the Secretaries in preparing the report required
8 by this section. The Secretary of Agriculture, Food and Markets and the
9 Secretary of Natural Resources shall submit the final report required by this
10 section on or before January 15, 2017.

11 * * * Agricultural Water Quality; Permit Fee Report* * *

12 Sec. 6. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT
13 ON FEES FOR PERMITTED FARMS

14 On or before January 15, 2016, the Secretary of Agriculture, Food and
15 Markets shall submit to the House Committee on Agriculture and Forest
16 Products, the Senate Committee on Agriculture, the House Committee on Fish,
17 Wildlife and Water Resources, the Senate Committee on Natural Resources
18 and Energy, the House Committee on Ways and Means, and the Senate
19 Committee on Finance a report regarding the fees to be assessed farms for
20 permits or certifications issued under 6 V.S.A. chapter 215. The report shall
21 include:

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- 1 (1) a recommended fee amount to be assessed against large farms,
2 medium farms, and small farms permitted or certified by the Agency;
3 (2) a recommended fee for custom applicators and other entities
4 regulated under 6 V.S.A. chapter 215;
5 (3) a recommended schedule for implementation and collection of fees;
6 and
7 (4) a recommended use for collected fees, including whether the
8 collected fees should be deposited into a specific special fund.

9 * * * Agricultural Water Quality; Best Management Practices * * *

10 Sec. 7. 6 V.S.A. § 4810 is amended to read:

11 § 4810. AUTHORITY; COOPERATION; COORDINATION

12 (a) Agricultural land use practices. In accordance with 10 V.S.A.
13 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.
14 chapter 25 of Title 3, and shall implement and enforce agricultural land use
15 practices in order to ~~reduce the amount of agricultural pollutants entering the~~
16 ~~waters of the state~~ satisfy the requirements of 33 U.S.C. § 1329 that State
17 identify and implement best management practices to control nonpoint sources
18 of agricultural waste to waters of the State. These agricultural land use
19 practices shall be created in two categories, pursuant to subdivisions (1) and
20 (2) of this subsection.

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

12 Persons engaged in farming, as defined in 10 V.S.A. § 6001, who ~~follow~~ are in
13 compliance with these practices shall be presumed to be in compliance with
14 water quality standards. AAPs shall be practical and ~~cost-effective~~
15 cost-effective to implement, as determined by the Secretary. The AAPs for
16 groundwater shall include a process under which the ~~agency~~ Agency shall
17 receive, investigate, and respond to a complaint that a farm has contaminated
18 the drinking water or groundwater of a property owner.

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

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1 ~~available to assist farmers in achieving compliance with applicable BMPs.~~

2 When requiring implementation of a BMP, the Secretary shall inform a farmer

3 of the resources available to assist the farmer in implementing BMPs and

4 complying with the requirements of this chapter. BMPs shall be practical and

5 cost effective to implement, as determined by the Secretary, and shall be

6 designed to achieve compliance with the requirements of this chapter.

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

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

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

11 (c) Mandatory BMP implementation.

12 (1) As used in this subsection, “gap watershed” means a watershed of
13 the State that is impaired due to nutrient pollution and that, based on projected
14 pollutant reductions across all categories of pollutant sources, will not meet:

15 (A) the Vermont water quality standards; or

16 (B) relevant pollutant load allocations under a total maximum daily
17 load plan.

18 (2) On or before January 1, 2016, the Secretary of Agriculture, Food and
19 Markets, in consultation with the Secretary of Natural Resources, shall issue a
20 list of BMPs that shall be required on all farms that manage animal waste and

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1 that are located in a gap watershed. The list of required BMPs shall, at a
2 minimum, require:

3 (A) all livestock to be excluded from the waters of the State; and

4 (B)(i) management of animal waste through the use of an animal
5 waste system that meets the requirements of section 4815 of this title; or

6 (ii) if the farm does not use an animal waste system to manage
7 animal waste, the farm shall have the infrastructure capacity to manage animal
8 waste in a manner that prevents runoff or leaching of wastes to waters of the
9 State or groundwater.

10 (3) Beginning on July 1, 2016, the Secretary of Agriculture, Food and
11 Markets shall require all farms that manage animal waste and that are located
12 in a gap watershed to implement the required BMPs. A farm subject to the
13 required BMPs may submit to the Secretary a schedule for compliance with the
14 required BMPs provided that all required BMPs shall be implemented on or
15 before July 1, 2017.

16 Sec. 8. 6 V.S.A. § 4813 is amended to read:

17 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~

18 ~~RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

19 (a) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture,
20 Food and Markets shall cooperate with the ~~secretary of natural resources~~
21 Secretary of Natural Resources in the basin planning process with regard to the

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1 agricultural non-point source waste component of each basin plan. Any person
2 with an interest in the agricultural non-point source component of the basin
3 planning process may petition the ~~secretary of agriculture, food and markets~~
4 Secretary of Agriculture, Food and Markets to require, and the ~~secretary~~
5 Secretary may require, best management practices in the individual basin
6 beyond accepted agricultural practices adopted by rule, in order to achieve
7 compliance with the water quality goals in 10 V.S.A. § 1250 and any duly
8 adopted basin plan. The ~~secretary of agriculture, food and markets~~ Secretary
9 of Agriculture, Food and Markets shall hold a public hearing within 60 days
10 and shall issue a timely written decision that sets forth the facts and reasons
11 supporting the decision.

12 (b) Any person engaged in farming that has been required by the ~~secretary~~
13 ~~of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to
14 implement best management practices or any person who has petitioned the
15 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
16 Markets under subsection (a) of this section may appeal the ~~secretary of~~
17 ~~agriculture, food and market's~~ Secretary of Agriculture, Food and Markets'
18 decision to the ~~environmental division~~ Environmental Division de novo.

19 (c) ~~Before requiring best management practices under this section, the~~
20 ~~secretary of agriculture, food and markets or the board shall determine that~~
21 ~~sufficient financial assistance is available to assist farmers in achieving~~

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1 ~~compliance with applicable best management practices~~ When requiring
2 implementation of a best management practice, the Secretary shall inform a
3 farmer of the resources available to assist the farmer in implementing the best
4 management practice and complying with the requirements of this chapter.

5 * * * Agricultural Water Quality; Training * * *

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

7 Subchapter 8. Agricultural Water Quality Training

8 § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

9 TRAINING

10 (a) The Secretary of Agriculture, Food and Markets shall adopt by
11 procedure requirements for training classes or programs for owners or
12 operators of small farms, medium farms, or large farms certified or permitted
13 under this chapter regarding:

14 (1) the prevention of discharges, as that term is defined in 10 V.S.A.
15 § 1251(3); and

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

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

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

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1 (2) the management practices and technical and financial resources
2 available to assist in compliance with statutory or regulatory agricultural
3 requirements; and
4 (3) the land application of manure, nutrients, or sludge; methods or
5 techniques to minimize the runoff of land-applied manure, nutrients, or sludge
6 to waters of the State; and identification of weather or soil conditions that
7 increase the risk of runoff of land-applied manure, nutrients, septage, or sludge
8 to waters of the State.

9 (c) The Secretary shall include the training required by this section as a
10 condition of a large farm permit, medium farm permit, or small farm
11 certification required under this chapter. The Secretary may phase in training
12 requirements under this section based on farm size, permit or certification
13 category, or available staffing. On or before January 1, 2016 the Secretary
14 shall establish a schedule by which all owners or operators of small farms,
15 medium farms, or large farms shall complete the training required by this
16 section.

17 * * * Agricultural Water Quality;

18 Certification of Custom Applicators * * *

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

20 Subchapter 9. Certification of Custom Applicators of Manure,

21 Nutrients, Septage, or Sludge

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1 § 4987. DEFINITIONS

2 As used in this subchapter:

3 (1) “Custom applicator” means the owner of a company engaged in the
4 business of applying manure, nutrients, septage, or sludge to land and who
5 charges or collects other consideration for the service. “Custom applicator”
6 shall include employees of a custom applicator, when the employees apply
7 manure, nutrients, septage, or sludge to land.

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

10 (3) “Septage” means the liquid and solid materials pumped from a septic
11 tank or cesspool during cleaning.

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

16 § 4988. CERTIFICATION OF CUSTOM APPLICATOR

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

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

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

6 (b) A custom applicator shall not apply manure, nutrients, septage, or
7 sludge unless certified by the Secretary of Agriculture, Food and Markets.

8 (c) The requirements of this section shall not apply to an owner or operator
9 of a farm applying manure, nutrients, septage, or sludge to a field that he or she
10 owns or controls.

11 * * * Agricultural Water Quality; Enforcement; Corrective Actions * * *

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

13 Subchapter 10. Enforcement

14 § 4991. PURPOSE

15 The purpose of this subchapter is to provide the Secretary of Agriculture,
16 Food and Markets with the necessary authority to enforce the agricultural
17 water quality requirements of this chapter. When the Secretary of Agriculture,
18 Food and Markets determines that a person subject to the requirements of the
19 chapter is violating a requirement of this chapter, the Secretary shall respond to
20 and require discontinuance of the violation. The Secretary may respond to a
21 violation of the requirements of this chapter by:

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1 (1) issuing a corrective action order under section 4992 of this title;

2 (2) issuing a cease and desist order under section 4993 of this title;

3 (3) issuing an emergency order under section 4993 of this title;

4 (4) revoking or conditioning coverage under a permit or certification
5 under section 4994 of this title;

6 (4) bringing a civil enforcement action under section 4995 of this title;

7 (5) referring the violation to the Secretary of Natural Resources for
8 enforcement under 10 V.S.A. chapter 201; or

9 (6) pursuing other action, such as consulting with a farmer, within the
10 authority of the Secretary to assure discontinuance of the violation and
11 remediation of any harm caused by the violation.

12 § 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

13 (a) When the Secretary of Agriculture, Food and Markets determines that a
14 person is violating the requirements of this chapter, rules adopted under this
15 chapter, or a permit or certification issued under this chapter, the Secretary
16 may issue a written warning that shall be served in person or by certified mail,
17 return receipt requested. A warning issued under this subsection shall include:

18 (1) a description of the alleged violation;

19 (2) identification of this section;

20 (3) identification of the applicable statute, rule, or permit condition

21 violated;

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1 (4) the required corrective actions that the person shall take to correct
2 the violation; and

3 (5) a summary of federal and State assistance programs that may be
4 utilized by the person to assist in correcting the violation.

5 (b) A person issued a warning under this section shall have 30 days to
6 respond to the written warning and shall provide an abatement schedule for
7 curing the violation and a description of the corrective action to be taken to
8 cure the violation.

9 (c) If a person who receives a warning under this subsection fails to
10 respond in a timely manner to the written warning or to take corrective action,
11 the Secretary may act pursuant to section 4993 or section 4995 of this section
12 in order to protect water quality.

13 § 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST
14 ORDERS; EMERGENCY ORDERS

15 (a) Notwithstanding the requirements of section 4992 of this title, the
16 Secretary at any time may pursue one or more of the following enforcement
17 actions:

18 (1) Issue a cease and desist order in accordance with the requirements of
19 subsection (b) of this section to a person the Secretary believes to be in
20 violation of the requirements of this chapter.

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1 (2) Issue emergency administrative orders to protect water quality when
2 an alleged violation, activity, or farm practice:

3 (A) presents an immediate threat of substantial harm to the
4 environment or immediate threat to the public health or welfare;

5 (B) is likely to result in an immediate threat of substantial harm to the
6 environment or immediate threat to the public health or welfare; or

7 (C) requires a permit or amendment to a permit issued under this
8 chapter and a farm owner or operator has commenced an activity or is
9 continuing an activity without a permit or permit amendment.

10 (3) Institute appropriate proceedings on behalf of the Agency of
11 Agriculture, Food and Markets to enforce the requirements of this chapter,
12 rules adopted under this chapter, or a permit or certification issued under this
13 chapter.

14 (4) Order mandatory corrective actions, including a requirement to
15 remove livestock from a farm or production area when the volume of waste
16 produced by livestock on the farm exceeds the infrastructure capacity of the
17 farm or the production area to manage the waste or waste leachate and prevent
18 runoff or leaching of wastes to waters of the State or groundwater, as required
19 by this chapter.

20 (5) Seek administrative or civil penalties in accordance with the
21 requirements of section 15, 16, 17, or 4993 of this title. Notwithstanding the

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1 requirements of section 15 of this title to the contrary, the maximum
2 administrative penalty issued by the Secretary under this section shall not
3 exceed \$5,000.00 for each violation, and the maximum amount of any penalty
4 assessed for separate and distinct violations of this chapter shall not exceed
5 \$50,000.00.

6 (b) A person may request that the Secretary hold a hearing on a cease and
7 desist order or an emergency order issued under this section within five days of
8 receipt of the order. Upon receipt of a request for a hearing, the Secretary
9 promptly shall set a date and time for a hearing. A request for a hearing on a
10 cease and desist order or emergency order issued under this section shall not
11 stay the order.

12 § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

13 The Secretary may, after due notice and hearing, revoke or condition
14 coverage under a general permit, an individual permit, a small farm
15 certification, or other permit or certification issued under this chapter or rules
16 adopted under this chapter when the person subject to the permit or
17 certification fails to comply with a requirement of this chapter or any term,
18 provision, or requirements of a permit or certification required by this chapter.
19 The Secretary may also seek enforcement remedies and penalties under this
20 subchapter against any person who fails to comply with any term, provision, or
21 requirements of a permit or certification required by this chapter or who

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1 violates the terms or conditions of coverage under any general permit, any
2 individual permit, or any certification issued under this chapter.

3 § 4995. CIVIL ENFORCEMENT

4 (a) The Secretary may bring an action in the Civil Division of the Superior
5 Court to enforce the requirements of this chapter, or rules adopted under this
6 chapter, or any permit or certification issued under this chapter, to assure
7 compliance, and to obtain penalties in the amounts described in subsection (b)
8 of this section. The action shall be brought by the Attorney General in the
9 name of the State.

10 (b) The court may grant temporary and permanent injunctive relief,
11 and may:

12 (1) Enjoin future activities.

13 (2) Order corrective actions to be taken to mitigate or curtail any
14 violation and to protect human health or the environment, including the
15 removal of livestock from the farm or production area when the volume of
16 wastes produced by livestock exceeds the infrastructure capacity of the farm or
17 its production area to manage the waste or waste leachate to prevent runoff or
18 leaching of wastes to waters of the State or groundwater as required by the
19 standards in this chapter.

20 (3) Order the design, construction, installation, operation, or
21 maintenance of facilities designed to mitigate or prevent a violation of this

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1 chapter or to protect human health or the environment or designed to assure
2 compliance.

3 (4) Fix and order compensation for any public or private property
4 destroyed or damaged.

5 (5) Revoke coverage under any permit or certification issued under this
6 chapter.

7 (6) Order reimbursement from any person who caused governmental
8 expenditures for the investigation, abatement, mitigation, or removal of a
9 hazard to human health or the environment.

10 (7) Levy a civil penalty as provided in this subdivision. A civil penalty
11 of not more than \$85,000.00 may be imposed for each violation. In addition,
12 in the case of a continuing violation, a penalty of not more than \$42,500.00
13 may be imposed for each day the violation continues. In fixing the amount of
14 the penalty, the court shall apply the criteria set forth in subsections (e) and (f)
15 of this section. The cost of collection of penalties or other monetary awards
16 shall be assessed against and added to a penalty assessed against a respondent.

17 (c)(1) In any civil action brought under this section in which a temporary
18 restraining order or preliminary injunction is sought, relief shall be obtained
19 upon a showing that there is the probability of success on the merits and that:

20 (A) a violation exists; or

21 (B) a violation is imminent and substantial harm is likely to result.

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1 (2) In a civil action brought under this section in which a temporary
2 restraining order or preliminary injunction is sought, the Secretary need not
3 demonstrate immediate and irreparable injury, loss, or damage.

4 (d) Any balancing of the equities in actions under this section may affect
5 the time by which compliance shall be attained, but not the necessity of
6 compliance within a reasonable period of time.

7 (e) In determining the amount of the penalty provided in subsection (b) of
8 this section, the court shall consider the following:

9 (1) the degree of actual or potential impact on public health, safety,
10 welfare, and the environment resulting from the violation;

11 (2) the presence of mitigating circumstances, including unreasonable
12 delay by the Secretary in seeking enforcement;

13 (3) whether the respondent knew or had reason to know the violation
14 existed;

15 (4) the respondent's record of compliance;

16 (5) the deterrent effect of the penalty;

17 (6) the State's actual costs of enforcement; and

18 (7) the length of time the violation has existed.

19 (f) In addition to any penalty assessed under subsection (b) of this section,
20 the Secretary may also recapture economic benefit resulting from a violation.

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1 § 4996. APPEALS; ENFORCEMENT

2 (a) Any person subject, under this subchapter, to an enforcement order, an
3 administrative penalty, or revocation of a permit or certification who is
4 aggrieved by a final decision of the Secretary may appeal to the Superior Court
5 within 30 days of the decision. The administrative judge may specially assign
6 an environmental judge to Superior Court for the purpose of hearing an appeal.

7 (b) If the Secretary issues an emergency order under this chapter, the
8 person subject to the order may request a hearing before the Superior Court.
9 Notice of the request for hearing under this subdivision shall be filed with the
10 Superior Court and the Secretary within five days of receipt of the order. A
11 hearing on the emergency order shall be held at the earliest possible time and
12 shall take precedence over all other hearings. The hearing shall be held within
13 five days of receipt of the notice of the request for hearing. A request for
14 hearing on an emergency order shall not stay the order. The Superior Court
15 shall issue a decision within five days from the conclusion of the hearing, and
16 no later than 30 days from the date the notice of request for hearing was
17 received by the person subject to the order.

18 Sec. 12. 6 V.S.A. § 4812 is amended to read:

19 § 4812. CORRECTIVE ACTIONS

20 ~~(a) When the Secretary of Agriculture, Food and Markets determines that a~~
21 ~~person engaged in farming is managing a farm using practices which are~~

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

14 ~~(b) The Secretary may:~~

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

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

19 ~~(c) Whenever the Secretary believes that any person engaged in farming is~~
20 ~~in violation of this subchapter or rules adopted thereunder, an action may be~~
21 ~~brought in the name of the Agency in a court of competent jurisdiction to~~

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1 ~~restrain by temporary or permanent injunction the continuation or repetition of~~
2 ~~the violation. The court may issue temporary or permanent injunctions, and~~
3 ~~other relief as may be necessary and appropriate to curtail any violations.~~

4 ~~(d) [Repealed.]~~

5 ~~(e) Any person subject to an enforcement order or an administrative~~
6 ~~penalty who is aggrieved by the final decision of the Secretary may appeal to~~
7 ~~the Superior Court within 30 days of the decision. The administrative judge~~
8 ~~may specially assign an Environmental judge to Superior Court for the purpose~~
9 ~~of hearing an appeal. [Repealed.]~~

10 Sec. 13. 6 V.S.A. § 4854 is amended to read:

11 § 4854. **REVOCATION; ENFORCEMENT**

12 ~~The secretary may revoke a permit issued under this subchapter after~~
13 ~~following the same process prescribed by section 2705 of this title regarding~~
14 ~~the revocation of a handler's license. The secretary may also seek enforcement~~
15 ~~remedies under sections 1, 12, 13, 16, and 17 of this title as well as assess an~~
16 ~~administrative penalty under section 15 of this title to any person who fails to~~
17 ~~apply for a permit as required by this subchapter, or who violates the terms or~~
18 ~~conditions of a permit issued under this subchapter. However, notwithstanding~~
19 ~~the provisions of section 15 of this title to the contrary, the maximum~~
20 ~~administrative penalty assessed for a violation of this subchapter shall not~~
21 ~~exceed \$5,000.00 for each violation, and the maximum amount of any penalty~~

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1 assessed for separate and distinct violations of this chapter shall not exceed
2 \$50,000.00. [Repealed.]

3 Sec. 14. 6 V.S.A. § 4858(b) is amended to read:

4 (b) Rules; general and individual permits. The ~~secretary~~ Secretary shall
5 establish by rule, pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~, requirements for a
6 “general permit” and “individual permit” to ~~ensure~~ assure that medium and
7 small farms generating animal waste comply with the water quality standards
8 of the ~~state~~ State.

9 * * *

10 (2) The rules adopted under this section shall also address permit
11 administration, public notice and hearing, permit enforcement, permit
12 transition, revocation, and appeals consistent with provisions of sections 4859,
13 ~~4860~~, and 4861 of this title and subchapter 10 of this chapter.

14 * * *

15 Sec. 15. 6 V.S.A. § 4860 is amended to read:

16 § 4860. ~~REVOCATION; ENFORCEMENT~~

17 (a) ~~The secretary may revoke coverage under a general permit or an~~
18 ~~individual permit issued under this subchapter after following the same process~~
19 ~~prescribed by section 2705 of this title regarding the revocation of a handler’s~~
20 ~~license. The secretary may also seek enforcement remedies under sections 1,~~
21 ~~11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty~~

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1 under section 15 of this title from any person who fails to comply with any
2 permit provision as required by this subchapter or who violates the terms or
3 conditions of coverage under any general permit or any individual permit
4 issued under this subchapter. However, notwithstanding provisions of section
5 15 of this title to the contrary, the maximum administrative penalty assessed
6 for a violation of this subchapter shall not exceed \$5,000.00 for each violation,
7 and the maximum amount of any penalty assessed for separate and distinct
8 violations of this chapter shall not exceed \$50,000.00.

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

14 (c) Any person who knowingly makes any false statement, representation,
15 or certification in any application, record, report, plan, or other document filed
16 or required to be maintained by this subchapter or by any permit, rule,
17 regulation, or order issued under this subchapter, or who falsifies, tampers
18 with, or knowingly renders inaccurate any monitoring device or method
19 required to be maintained by this subchapter or by any permit, rule, regulation,
20 or order issued under this subchapter shall upon conviction be punished by a
21 fine of not more than \$5,000.00 for each violation. Each violation may be a

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1 ~~separate offense and, in the case of a continuing violation, each day's~~
2 ~~continuance may be deemed a separate offense. [Repealed.]~~

3 * * * Stream Alteration; Agricultural Activities * * *

4 Sec. 16. 10 V.S.A. § 1021 is amended to read:

5 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

6 (a) A person shall not change, alter, or modify the course, current, or cross
7 section of any watercourse or of designated outstanding resource waters,
8 within or along the boundaries of this State either by movement, fill, or
9 excavation of ten cubic yards or more of instream material in any year, unless
10 authorized by the Secretary. A person shall not establish or construct a berm in
11 a flood hazard area or river corridor, as those terms are defined in subdivisions
12 752(3) and (11) of this title, unless permitted by the Secretary or constructed as
13 an emergency protective measure under subsection (b) of this section.

14 * * *

15 (f) This subchapter shall not apply to:

16 (1) accepted agricultural or silvicultural practices, as defined by the
17 Secretary of Agriculture, Food and Markets, or timber harvesting activities in
18 compliance with the Acceptable Management Practices for Maintaining Water
19 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
20 Forests, Parks and Recreation, respectively; or

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1 (i) found, after hearing, to be out of compliance with water quality
2 requirements established under 6 V.S.A. chapter 215; or

3 (ii) who is not in compliance with the terms of an order issued
4 under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of water
5 quality requirements established under 6 V.S.A. chapter 215.

6 (B) The Director shall notify the owner that agricultural land or a
7 farm building has been removed from use value appraisal by mailing
8 notification of removal to the owner or operator's last and usual place of
9 abode. After removal of agricultural land or a farm building from use value
10 appraisal under this section, the Director shall not consider a new application
11 for use value appraisal for the agricultural land or farm building until the
12 Secretary of Agriculture, Food and Markets submits to the Director a
13 certification that the owner or operator of the agricultural land or farm building
14 is complying with the water quality requirements of 6 V.S.A. chapter 215 or an
15 order issued under 6 V.S.A. chapter 215. After submission of a certification by
16 the Secretary of Agriculture, Food and Markets, an owner or operator shall be
17 eligible to apply for enrollment of the agricultural land or farm building
18 according to the requirements of section 3756 of this title.

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1 Sec. 18. 32 V.S.A. § 3758 is amended to read:

2 § 3758. APPEALS

3 (a) Whenever the Director denies in whole or in part any application for
4 classification as agricultural land or managed forestland or farm buildings, or
5 grants a different classification than that applied for, or the Director or
6 assessing officials fix a use value appraisal or determine that previously
7 classified property is no longer eligible or that the property has undergone a
8 change in use, the aggrieved owner may appeal the decision of the Director to
9 the Commissioner within 30 days of the decision, and from there to Superior
10 Court in the county in which the property is located.

11 * * *

12 (e) When the Director removes agricultural land or a farm building
13 pursuant to notification from the Secretary of Agriculture, Food and Markets
14 under section 3756 of this title, the exclusive right of appeal shall be as
15 provided in 6 V.S.A. § 4991(d).

16 Sec. 19. 32 V.S.A. § 3752(5) is amended to read:

17 (5) “Development” means, for the purposes of determining whether a
18 land use change tax is to be assessed under section 3757 of this chapter, the
19 construction of any building, road, or other structure, or any mining,
20 excavation, or landfill activity. “Development” also means the subdivision of
21 a parcel of land into two or more parcels, regardless of whether a change in use

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1 actually occurs, where one or more of the resulting parcels contains less than
2 25 acres each; but if subdivision is solely the result of a transfer to one or more
3 of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of
4 the transferor, or to the surviving spouse of any of the foregoing, then
5 “development” shall not apply to any portion of the newly created parcel or
6 parcels which qualifies for enrollment and for which, within 30 days following
7 the transfer, each transferee or transferor applies for reenrollment in the use
8 value appraisal program. “Development” also means the cutting of timber on
9 property appraised under this chapter at use value in a manner contrary to a
10 forest or conservation management plan as provided for in subsection 3755(b)
11 of this title during the remaining term of the plan, or contrary to the minimum
12 acceptable standards for forest management if the plan has expired; or a
13 change in the parcel or use of the parcel in violation of the conservation
14 management standards established by the Commissioner of Forests, Parks and
15 Recreation. “Development” also means notification of the Director by the
16 Secretary of Agriculture, Food and Markets under section 3756 of this title that
17 the owner or operator of agricultural land or a farm building is violating the
18 water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with
19 the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The
20 term “development” shall not include the construction, reconstruction,
21 structural alteration, relocation, or enlargement of any building, road, or other

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1 structure for farming, logging, forestry, or conservation purposes, but shall
2 include the subsequent commencement of a use of that building, road, or
3 structure for other than farming, logging, or forestry purposes.

4 * * * Agency of Natural Resources Basin Planning * * *

5 Sec. 20. 10 V.S.A. § 1253 is amended to read:

6 § 1253. CLASSIFICATION OF WATERS DESIGNATED,

7 RECLASSIFICATION

8 * * *

9 (d)(1) ~~The~~ Through the process of basin planning, the Secretary shall
10 determine what degree of water quality and classification should be obtained
11 and maintained for those waters not classified by the Board before 1981
12 following the procedures in sections 1254 and 1258 of this title. Those waters
13 shall be classified in the public interest. The Secretary shall prepare and
14 maintain an overall surface water management plan to assure that the State
15 water quality standards are met in all State waters. The surface water
16 management plan shall include a schedule for updating the basin plans. The
17 Secretary, in cooperation with regional planning commissions, shall revise all
18 ~~17~~ 15 basin plans ~~by January 1, 2006, and update them every five years~~
19 ~~thereafter~~ the basin plans on a five-year rotating basis. On or before January 1
20 15 of each year, the Secretary shall report to the House Committees on
21 Agriculture and Forest Products, on Natural Resources and Energy, and on

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1 Fish, Wildlife and Water Resources, and to the Senate Committees on
2 Agriculture and on Natural Resources and Energy regarding the progress made
3 and difficulties encountered in revising basin plans. ~~By January 1, 1993, the~~
4 ~~Secretary shall prepare an overall management plan to ensure that the water~~
5 ~~quality standards are met in all State waters.~~ The report shall include a
6 schedule for the production of basin plans in the subsequent calendar year and
7 a summary of actions to be taken over the subsequent three years. The
8 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply
9 to the report to be made under this subsection.

10 (2) In developing a basin plan under this subsection, the Secretary shall:

11 (A) assure that municipal officials, citizens, watershed groups, and
12 other interested groups and individuals are involved in the basin planning
13 process;

14 (B) assure regional and local input in State water quality policy
15 development and planning processes;

16 (C) provide education to municipal officials and citizens regarding
17 the basin planning process; and

18 (D) develop, in cooperation with the applicable regional planning
19 commission, an analysis and formal recommendation on conformance with the
20 goals and objectives of applicable regional plans.

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1 (3) The Secretary may contract with a regional planning commission to
2 assist in or to produce a basin plan under the schedule set forth in subdivision
3 (1) of this subsection. When contracting with a regional planning commission
4 to assist in or produce a basin plan, the Secretary may require the regional
5 planning commission to:

6 (A) conduct any of the activities required under subdivision (2) of
7 this subsection;

8 (B) provide technical assistance and data collection activities to
9 inform municipal officials and the State in making water quality investment
10 decisions;

11 (C) coordinate municipal planning and adoption or implementation of
12 municipal development regulations to better meet State water quality policies
13 and investment priorities;

14 (D) assist the Secretary in implementing a project evaluation process
15 to prioritize water quality improvement projects within the region to assure
16 cost effective use of State and federal funds;

17 (e) In determining the question of public interest, the Secretary shall give due
18 consideration to, and explain his or her decision with respect to, the following:

19 (1) existing and obtainable water qualities;

20 (2) existing and potential use of waters for public water supply,

21 recreational, agricultural, industrial, and other legitimate purposes;

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- 1 (3) natural sources of pollution;
- 2 (4) public and private pollution sources and the alternative means of
- 3 abating the same;
- 4 (5) consistency with the State water quality policy established in
- 5 10 V.S.A. § 1250;
- 6 (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
- 7 (7) need for and use of minimum streamflow requirements;
- 8 (8) federal requirements for classification and management of waters;
- 9 (9) consistency with applicable municipal, regional, and State plans; and
- 10 (10) any other factors relevant to determine the maximum beneficial use
- 11 and enjoyment of waters.

12 (f) Notwithstanding the provisions of subsection (c) of this section, when
13 reclassifying waters to Class A, the Secretary need find only that the
14 reclassification is in the public interest.

15 (g) The Secretary under the reclassification rule may grant permits for only
16 a portion of the assimilative capacity of the receiving waters, or may permit
17 only indirect discharges from on-site disposal systems, or both.

18 Sec. 21. 24 V.S.A. § 4302 is amended to read:

19 § 4302. PURPOSE; GOALS

20 * * *

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1 (b) It is also the intent of the Legislature that municipalities, regional
2 planning commissions, and State agencies shall engage in a continuing
3 planning process that will further the following goals:

4 * * *

5 (c) In addition, this chapter shall be used to further the following specific
6 goals:

7 * * *

8 (6) To maintain and improve the quality of air, water, wildlife, and land
9 resources.

10 (A) Vermont's air, water, wildlife, mineral and land resources should
11 be planned for use and development according to the principles set forth in
12 10 V.S.A. § 6086(a).

13 (B) Vermont's water quality should be maintained and improved
14 according to the policies and actions developed in the basin plans established
15 by the Secretary of Natural Resources under 10 V.S.A. § 1253.

16 * * *

17 Sec. 22. 24 V.S.A. § 4348(c) is amended to read:

18 (c) At least 30 days prior to the first hearing, a copy of the proposed plan or
19 amendment, with a request for general comments and for specific comments
20 with respect to the extent to which the plan or amendment is consistent with
21 the goals established in section 4302 of this title, shall be delivered with proof

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1 of receipt, or sent by certified mail, return receipt requested, to each of the
2 following:

3 (1) the chair of the legislative body of each municipality within the
4 region;

5 (2) the executive director of each abutting regional planning
6 commission;

7 (3) the Department of Housing and Community Development within the
8 Agency of Commerce and Community Development; ~~and~~

9 (4) business, conservation, low income advocacy, and other community
10 or interest groups or organizations that have requested notice in writing prior to
11 the date the hearing is warned; and

12 (5) The Agency of Natural Resources and the Agency of Agriculture,
13 Food and Markets.

14 Sec. 23. 24 V.S.A. § 4348a(a) is amended to read:

15 (a) A regional plan shall be consistent with the goals established in section
16 4302 of this title and shall include the following:

17 * * *

18 (6) A statement of policies on the:

19 (A) preservation of rare and irreplaceable natural areas, scenic and
20 historic features and resources; and

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1 (B) protection and improvement of the quality of State waters to be
2 used in the development and furtherance of the applicable basin plans
3 established by the Secretary of Natural Resources under 10 V.S.A. § 1253;

* * *

* * * Antidegradation Policy Implementation Rule * * *

6 Sec. 24. 10 V.S.A. § 1251a(c) is amended to read:

7 (c) On or before ~~January 15, 2008~~ July 1, 2016, the Secretary of Natural
8 Resources shall ~~propose draft rules for~~ adopt by rule an implementation
9 process for the antidegradation policy in the water quality standards of the
10 State. The implementation process for the antidegradation policy shall be
11 consistent with the State water quality policy established in section 1250 of
12 this title, the Vermont Water Quality Standards, and any applicable
13 requirements of the federal Clean Water Act. ~~On or before July 1, 2008, a~~
14 ~~final proposal of the rules for an implementation process for the~~
15 ~~antidegradation policy shall be filed with the Secretary of State under 3 V.S.A.~~
16 ~~§ 841.~~

* * * Stormwater Management * * *

18 Sec. 25. 10 V.S.A. § 1264 is amended to read:

19 § 1264. STORMWATER MANAGEMENT

20 ~~(a) The General Assembly finds that the management of stormwater runoff~~
21 ~~is necessary to reduce stream channel instability, pollution, siltation,~~

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

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1 (1) ~~“2002 Stormwater Management Manual” means the Agency of~~
2 ~~Natural Resources’ Stormwater Management Manual dated April 2002, as~~
3 ~~amended from time to time by rule.~~

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

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

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

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

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

20 (7) ~~“New stormwater discharge” means a new or expanded discharge of~~
21 ~~regulated stormwater runoff, subject to the permitting requirements of this~~

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1 ~~chapter, which first occurs after June 1, 2002 and has not been previously~~
2 ~~authorized pursuant to this chapter.~~

3 ~~(8) “Offset” means a State permitted or approved action or project~~
4 ~~within a stormwater impaired water that a discharger or a third person may~~
5 ~~complete to mitigate the impacts that a discharge of regulated stormwater~~
6 ~~runoff has on the stormwater impaired water.~~

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

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

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1 ~~(11) “Regulated stormwater runoff” means precipitation, snowmelt, and~~
2 ~~the material dissolved or suspended in precipitation and snowmelt that runs off~~
3 ~~impervious surfaces and discharges into surface waters or into groundwater via~~
4 ~~infiltration.~~

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

10 ~~(13) “Stormwater impaired water” means a State water that the~~
11 ~~Secretary determines is significantly impaired by discharges of regulated~~
12 ~~stormwater runoff.~~

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

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

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

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

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

15 ~~(19) “Net zero standard” means:~~

16 ~~(A) A new discharge or the expanded portion of an existing discharge~~
17 ~~meets the requirements of the 2002 Stormwater Management Manual and does~~
18 ~~not increase the sediment load in the receiving stormwater impaired water; or~~

19 ~~(B) A discharge from redevelopment; from an existing discharge~~
20 ~~operating under an expired stormwater discharge permit where the property~~
21 ~~owner applies for a new permit; or from any combination of development,~~

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1 redevelopment, and expansion meets on-site the water quality, recharge, and
2 channel protection criteria set forth in Table 1.1 of the 2002 Stormwater
3 Management Manual that are determined to be technically feasible by an
4 engineering feasibility analysis conducted by the Agency and if the sediment
5 load from the discharge approximates the natural runoff from an undeveloped
6 field or open meadow that is not used for agricultural activity.

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

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

3 (1) Indicate that the primary goals of the State program will be to assure
4 compliance with the Vermont Water Quality Standards and to maintain after
5 development, as nearly as possible, the predevelopment runoff characteristics.

6 (2) Allow for differences in hydrologic characteristics in different parts
7 of the State.

8 (3) Incorporate stormwater management into the basin planning process
9 conducted under section 1253 of this title.

10 (4) Assure consistency with applicable requirements of the federal Clean
11 Water Act.

12 (5) Address stormwater management in new development and
13 redevelopment.

14 (6) Control stormwater runoff from construction sites and other land
15 disturbing activities.

16 (7) Indicate that water quality mitigation practices may be required for
17 any redevelopment of previously developed sites, even when
18 preredevlopment runoff characteristics are proposed to be maintained.

19 (8) Specify minimum requirements for inspection and maintenance of
20 stormwater management practices.

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1 ~~(9) Promote detection and elimination of improper or illegal connections~~
2 ~~and discharges.~~

3 ~~(10) Promote implementation of pollution prevention during the conduct~~
4 ~~of municipal operations.~~

5 ~~(11) Provide for a design manual that includes technical guidance for the~~
6 ~~management of stormwater runoff.~~

7 ~~(12) Encourage municipal governments to utilize existing regulatory and~~
8 ~~planning authority to implement improved stormwater management by~~
9 ~~providing technical assistance, training, research and coordination with respect~~
10 ~~to stormwater management technology, and by preparing and distributing a~~
11 ~~model local stormwater management ordinance.~~

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

15 ~~(e) The Secretary shall submit the program report to the House Committees~~
16 ~~on Agriculture and Forest Products, on Transportation, and on Natural~~
17 ~~Resources and Energy and to the Senate Committees on Agriculture and on~~
18 ~~Natural Resources and Energy.~~

19 ~~(d)(1) The Secretary shall initiate rulemaking by October 15, 2004, and~~
20 ~~shall adopt a rule for a stormwater management program by June 15, 2005.~~

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

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

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

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

15 ~~(D) requirements concerning a permit for discharges of regulated~~
16 ~~stormwater runoff from the development, redevelopment, or expansion of~~
17 ~~impervious surfaces equal to or greater than one acre or any combination of~~
18 ~~development, redevelopment, and expansion of impervious surfaces equal to or~~
19 ~~greater than one acre; and~~

20 ~~(E) requirements concerning a permit for discharges of regulated~~
21 ~~stormwater runoff from an impervious surface of any size to~~

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1 ~~stormwater-impaired waters if the Secretary determines that treatment is~~
2 ~~necessary to reduce the adverse impact of such stormwater discharges due to~~
3 ~~the size of the impervious surface, drainage patterns, hydraulic connectivity,~~
4 ~~existing stormwater treatment, or other factors identified by the Secretary.~~

5 ~~(2) Notwithstanding 3 V.S.A. § 840(a), the Secretary shall hold at least~~
6 ~~three public hearings in different areas of the State regarding the proposed rule.~~

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

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1 ~~effects on receiving waters due to operation and maintenance of stormwater~~
2 ~~management facilities.~~

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

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

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

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

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1 ~~(3) Prior to issuing a permit under this subsection, the Secretary shall~~
2 ~~review the permit applicant's history of compliance with the requirements of~~
3 ~~this chapter. The Secretary may, at his or her discretion and as necessary to~~
4 ~~assure achievement of the goals of the program and compliance with State law~~
5 ~~and the federal Clean Water Act, deny an application for the discharge of~~
6 ~~regulated stormwater under this subsection if review of the applicant's~~
7 ~~compliance history indicates that the applicant is discharging regulated~~
8 ~~stormwater in violation of this chapter or is the holder of an expired permit for~~
9 ~~an existing discharge of regulated stormwater.~~

10 ~~(f)(1) In a stormwater impaired water, the Secretary may issue:~~

11 ~~(A) An individual permit in a stormwater impaired water for which~~
12 ~~no TMDL, water quality remediation plan, or watershed improvement permit~~
13 ~~has been established or issued, provided that the permitted discharge meets the~~
14 ~~following discharge standard: prior to the issuance of a general permit to~~
15 ~~implement a TMDL or a water quality remediation plan, the discharge meets~~
16 ~~the net-zero standard;~~

17 ~~(B) An individual permit or a general permit to implement a TMDL~~
18 ~~or water quality remediation plan in a stormwater impaired water, provided~~
19 ~~that the permitted discharge meets the following discharge standard:~~

20 ~~(i) a new stormwater discharge or the expansion of an existing~~
21 ~~discharge shall meet the treatment standards for new development and~~

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1 expansion in the 2002 Stormwater Management Manual and any additional
2 requirements deemed necessary by the Secretary to implement the TMDL or
3 water quality remediation plan;

4 (ii) for a discharge of regulated stormwater runoff from
5 redeveloped impervious surfaces:

6 (I) the existing impervious surface shall be reduced by 20
7 percent, or a stormwater treatment practice shall be designed to capture and
8 treat 20 percent of the water quality volume treatment standard of the 2002
9 Stormwater Management Manual from the existing impervious surface; and

10 (II) any additional requirements deemed necessary by the
11 Secretary to implement the TMDL or the water quality remediation plan;

12 (iii) an existing stormwater discharge shall meet the treatment
13 standards deemed necessary by the Secretary to implement a TMDL or a water
14 quality remediation plan;

15 (iv) if a permit is required for an expansion of an existing
16 impervious surface or for the redevelopment of an existing impervious surface,
17 discharges from the expansion or from the redeveloped portion of the existing
18 impervious surface shall meet the relevant treatment standard of the 2002
19 Stormwater Management Manual, and the existing impervious surface shall
20 meet the treatment standards deemed necessary by the Secretary to implement
21 a TMDL or the water quality remediation plan;

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1 ~~(C) A watershed improvement permit, provided that the watershed~~
2 ~~improvement permit provides reasonable assurance of compliance with the~~
3 ~~Vermont water quality standards in five years;~~

4 ~~(D) A general or individual permit that is implementing a TMDL or~~
5 ~~water quality remediation plan; or~~

6 ~~(E) A statewide general permit for new discharges that the Secretary~~
7 ~~deems necessary to assure attainment of the Vermont Water Quality Standards.~~

8 ~~(2) An authorization to discharge regulated stormwater runoff pursuant~~
9 ~~to a permit issued under this subsection shall be valid for a time period not to~~
10 ~~exceed five years. A person seeking to discharge regulated stormwater runoff~~
11 ~~after the expiration of that period shall obtain an individual permit or coverage~~
12 ~~under a general permit, whichever is applicable, in accordance with subsection~~
13 ~~1263(e) of this title.~~

14 ~~(3) By January 15, 2010, the Secretary shall issue a watershed~~
15 ~~improvement permit, issue a general or individual permit implementing a~~
16 ~~TMDL approved by the EPA, or issue a general or individual permit~~
17 ~~implementing a water quality remediation plan for each of the~~
18 ~~stormwater impaired waters on the Vermont Year 2004 Section 303(d) List of~~
19 ~~Waters required by 33 U.S.C. 1313(d). In developing a TMDL or a water~~
20 ~~quality remediation plan for a stormwater impaired water, the Secretary shall~~
21 ~~consult “A Scientifically Based Assessment and Adaptive Management~~

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1 Approach to Stormwater Management” and “Areas of Agreement about the
2 Scientific Underpinnings of the Water Resources Board’s Original Seven
3 Questions” set out in appendices A and B, respectively, of the final report of
4 the Water Resources Board’s “Investigation Into Developing Cleanup Plans
5 For Stormwater Impaired Waters, Docket No. Inv 03-01,” issued March 9,
6 2004.

7 (4) Discharge permits issued under this subsection shall require BMP-
8 based stormwater treatment practices. Permit compliance shall be judged on
9 the basis of performance of the terms and conditions of the discharge permit,
10 including construction and maintenance in accordance with BMP
11 specifications. Any permit issued for a new stormwater discharge or for the
12 expanded portion of an existing discharge pursuant to this subsection shall
13 require compliance with BMPs for stormwater collection and treatment
14 established by the 2002 Stormwater Management Manual, and any additional
15 requirements for stormwater treatment and control systems as the Secretary
16 determines to be necessary to ensure that the permitted discharge does not
17 cause or contribute to a violation of the Vermont Water Quality Standards.

18 (5) In addition to any permit condition otherwise authorized under
19 subsection (e) of this section, in any permit issued pursuant to this subsection,
20 the Secretary may require an offset or stormwater impact fee as necessary to
21 ensure the discharge does not cause or contribute to a violation of the Vermont

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1 ~~Water Quality Standards. Offsets and stormwater impact fees, where utilized,~~
2 ~~shall incorporate an appropriate margin of safety to account for the variability~~
3 ~~in quantifying the load of pollutants of concern. To facilitate utilization of~~
4 ~~offsets and stormwater impact fees, the Secretary shall identify by January 1,~~
5 ~~2005 a list of potential offsets in each of the waters listed as a~~
6 ~~stormwater impaired water under this subsection.~~

7 ~~(g)(1) The Secretary may issue a permit consistent with the requirements of~~
8 ~~subsection (f) of this section, even where a TMDL or wasteload allocation has~~
9 ~~not been prepared for the receiving water. In any appeal under this chapter an~~
10 ~~individual permit meeting the requirements of subsection (f) of this section~~
11 ~~shall have a rebuttable presumption in favor of the permittee that the discharge~~
12 ~~does not cause or contribute to a violation of the Vermont Water Quality~~
13 ~~Standards for the receiving waters with respect to the discharge of regulated~~
14 ~~stormwater runoff. This rebuttable presumption shall only apply to permitted~~
15 ~~discharges into receiving waters that are principally impaired by sources other~~
16 ~~than regulated stormwater runoff.~~

17 ~~(2) This subsection shall apply to stormwater permits issued under the~~
18 ~~federally delegated NPDES program only to the extent allowed under federal~~
19 ~~law.~~

20 ~~(h) The rebuttable presumption specified in subdivision (g)(1) of this~~
21 ~~section shall also apply to permitted discharges into receiving waters that meet~~

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1 the water quality standards of the State, provided the discharge meets the
2 requirements of subsection (e) of this section.

3 (i) ~~A residential subdivision may transfer a pretransition stormwater~~
4 ~~discharge permit or a stormwater discharge permit implementing a total~~
5 ~~maximum daily load plan to a municipality, provided that the municipality~~
6 ~~assumes responsibility for the permitting of the stormwater system that serves~~
7 ~~the residential subdivision. As used in this section:~~

8 (1) ~~“Pretransition stormwater discharge permit” means any permit~~
9 ~~issued by the Secretary of Natural Resources pursuant to this section on or~~
10 ~~before June 30, 2004 for a discharge of stormwater.~~

11 (2) ~~“Residential subdivision” means land identified and demarcated by~~
12 ~~recorded plat or other device that a municipality has authorized to be used~~
13 ~~primarily for residential construction.~~

14 (j) ~~Notwithstanding any other provision of law, if an application to~~
15 ~~discharge stormwater runoff pertains to a telecommunications facility as~~
16 ~~defined in 30 V.S.A. § 248a and is filed before July 1, 2017 and the discharge~~
17 ~~will be to a water that is not principally impaired by stormwater runoff:~~

18 (1) ~~The Secretary shall issue a decision on the application within 40~~
19 ~~days of the date the Secretary determines the application to be complete, if the~~
20 ~~application seeks authorization under a general permit.~~

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1 ~~(2) The Secretary shall issue a decision on the application within 60~~
2 ~~days of the date the Secretary determines the application to be complete, if the~~
3 ~~application seeks or requires authorization under an individual permit.~~

4 ~~(k) The Secretary may adopt rules regulating stormwater discharges and~~
5 ~~stormwater infrastructure repair or maintenance during a state of emergency~~
6 ~~declared under 20 V.S.A. chapter 1 or during flooding or other emergency~~
7 ~~conditions that pose an imminent risk to life or a risk of damage to public or~~
8 ~~private property. Any rule adopted under this subsection shall comply with~~
9 ~~National Flood Insurance Program requirements. A rule adopted under this~~
10 ~~subsection shall include a requirement that an activity receive an individual~~
11 ~~stormwater discharge emergency permit or receive coverage under a general~~
12 ~~stormwater discharge emergency permit.~~

13 ~~(1) A rule adopted under this subsection shall establish:~~

14 ~~(A) criteria for coverage under an individual or general emergency~~
15 ~~permit;~~

16 ~~(B) criteria for different categories of activities covered under a~~
17 ~~general emergency permit;~~

18 ~~(C) requirements for public notification of permitted activities,~~
19 ~~including notification after initiation or completion of a permitted activity;~~

20 ~~(D) requirements for coordination with State and municipal~~
21 ~~authorities;~~

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1 ~~(E) requirements that the Secretary document permitted activity,~~
2 ~~including, at a minimum, requirements for documenting permit terms,~~
3 ~~documenting permit duration, and documenting the nature of an activity when~~
4 ~~the rules authorize notification of the Secretary after initiation or completion of~~
5 ~~the activity.~~

6 ~~(2) A rule adopted under this section may:~~

7 ~~(A) establish reporting requirements for categories of activities;~~

8 ~~(B) authorize an activity that does not require reporting to the~~
9 ~~Secretary; or~~

10 ~~(C) authorize an activity that requires reporting to the Secretary after~~
11 ~~initiation or completion of an activity.~~

12 (a) Findings and intent.

13 (1) Findings. The General Assembly finds that the management of
14 stormwater runoff is necessary to reduce stream channel instability, pollution,
15 siltation, sedimentation, and flooding, all of which have adverse impacts on the
16 water and land resources of the State.

17 (2) Intent. The General Assembly intends, by enactment of this
18 section to:

19 (A) Reduce the adverse effects of stormwater runoff.

20 (B) Direct the Agency of Natural Resources to develop a process that
21 assures broad participation; focuses upon the prevention of pollution; relies on

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1 structural treatment only when necessary; establishes and maintains
2 accountability; tailors strategies to the region and the locale; builds
3 broad-based programs; provides for the evaluation and appropriate evolution of
4 programs; is consistent with the federal Clean Water Act and the State water
5 quality standards; and accords appropriate recognition to the importance of
6 community benefits that accompany an effective stormwater runoff
7 management program. In furtherance of these purposes, the Secretary shall
8 implement a stormwater permitting program. The stormwater permitting
9 program developed by the Secretary shall recognize that stormwater runoff is
10 different from the discharge of sanitary and industrial wastes because of the
11 influence of natural events of stormwater runoff, the variations in
12 characteristics of those runoffs, and the increased stream flows causing
13 degradation of the quality of the receiving water at the time of discharge.

14 (b) Definitions. As used in this section:

15 (1) “Best management practice” (BMP) means a schedule of activities,
16 prohibitions or practices, maintenance procedures, and other management
17 practices to prevent or reduce water pollution.

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

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1 (3) “Expansion” and “the expanded portion of an existing discharge”
2 mean an increase or addition of impervious surface, such that the total resulting
3 impervious area is greater than the minimum regulatory threshold.

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

7 (5) “New stormwater discharge” means a new or expanded discharge of
8 regulated stormwater runoff, subject to the permitting requirements of this
9 chapter that has not been previously authorized pursuant to this chapter.

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

14 (7) “Redevelopment” or “redevelop” means the construction or
15 reconstruction of an impervious surface where an impervious surface already
16 exists when such new construction involves substantial site grading, substantial
17 subsurface excavation, or substantial modification of an existing stormwater
18 conveyance, such that the total of impervious surface to be constructed or
19 reconstructed is greater than the minimum regulatory threshold.

20 Redevelopment does not mean public road management activities, including

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1 any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading
2 treatments used to maintain pavement, bridges, and unpaved roads.

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

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

12 (10) “Stormwater-impaired water” means a State water that the
13 Secretary determines is significantly impaired by discharges of regulated
14 stormwater runoff.

15 (11) “Stormwater Management Manual” means the Agency of Natural
16 Resources’ Stormwater Management Manual, as adopted and amended by rule.

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

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1 (13) “Stormwater system” includes the storm sewers; outfall sewers;
2 surface drains; manmade wetlands; channels; ditches; wet and dry bottom
3 basins; rain gardens; and other control equipment necessary and appurtenant to
4 the collection, transportation, conveyance, pumping, treatment, disposal, and
5 discharge of regulated stormwater runoff.

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

10 (15) “Water quality remediation plan” means a plan, other than a
11 TMDL, designed to bring an impaired water body into compliance with
12 applicable water quality standards in accordance with 40 C.F.R.
13 § 130.7(b)(1)(ii) and (iii).

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

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1 (c) Prohibitions.

2 (1) A person shall not commence the construction or redevelopment of
3 one acre or more of new impervious surface without first obtaining a permit
4 from the Secretary.

5 (2) A person shall not discharge from a facility that has a standard
6 industrial classification identified in 40 C.F.R. § 122.26 without first obtaining
7 a permit from the Secretary.

8 (3) A person that has been designated by the Secretary as requiring
9 coverage for its municipal separate storm sewer system may not discharge
10 without first obtaining a permit from the Secretary.

11 (4) A person shall not commence a project that will result in an earth
12 disturbance of one acre or greater, or less than one acre if part of a common
13 plan of development, without first obtaining a permit from the Secretary.

14 (5) A person shall not expand or redevelop existing impervious surface
15 by more than 5,000 square feet, such that the total resulting impervious area is
16 greater than one acre, without first obtaining a permit from the Secretary.

17 (6)(A) In accordance with the schedule established under subsection
18 (g)(2) of this section, a municipality shall not discharge stormwater from a
19 municipal road without first obtaining:

20 (i) an individual permit;

21 (ii) coverage under a municipal road general permit; or

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1 (iii) coverage under a municipal separate stormsewer system
2 permit that implements the technical standards and criteria established by the
3 Secretary for stormwater improvements of municipal roads.

4 (B) As used in this subdivision, “municipality” means a city, town, or
5 village.

6 (d) Exemptions. No permit is required under this section for:

7 (1) Stormwater runoff from farms subject in compliance with
8 agricultural practices adopted by the Secretary of Agriculture, Food and
9 Markets.

10 (2) Stormwater runoff from concentrated animal feeding operations
11 permitted under subsection 1263(g) of this chapter.

12 (3) Stormwater runoff from silvicultural activities in compliance with
13 the Acceptable Management Practices for Maintaining Water Quality on
14 Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks
15 and Recreation.

16 (4) Stormwater systems that were permitted under subdivision (c)(1) or
17 (5) of this section and for which a municipality has assumed full legal
18 responsibility for that stormwater system. As used in this subdivision, “full
19 legal responsibility” means a legal control of the stormwater system, including
20 a legal right to access the stormwater system, a legal duty to properly maintain

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1 the stormwater system, and a legal duty to repair and replace the stormwater
2 system when it no longer adequately protects waters of the State.

3 (5) Stormwater runoff permitted under section 1263 of this title.

4 (e) State designation. The Secretary shall require a permit under this
5 section for a discharge or stormwater runoff from any size of impervious
6 surfaces upon a determination by the Secretary that the treatment of the
7 discharge or stormwater runoff is necessary to reduce the adverse impacts to
8 water quality of the discharge or stormwater runoff taking into consideration
9 any of the following factors: the size of the impervious surface, drainage
10 patterns, hydraulic connectivity, existing stormwater treatment, stormwater
11 controls necessary to implement the wasteload allocation of a TMDL, or other
12 factors. The Secretary may make this determination on a case-by-case basis or
13 according to classes of activities, classes of runoff, or classes of discharge
14 identified during the basin planning process.

15 (f) Rulemaking. The Secretary shall adopt rules to manage regulated
16 stormwater runoff. At a minimum, the rules shall:

17 (1) Establish as the primary goals of the rules:

18 (A) assuring compliance with the Vermont Water Quality
19 Standards; and

20 (B) maintenance after development, as nearly as possible, of the
21 predevelopment runoff characteristics.

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- 1 (2) Establish criteria for the use of the basin planning process to
2 establish watershed-specific priorities for the management of stormwater
3 runoff.
- 4 (3) Assure consistency with applicable requirements of the federal Clean
5 Water Act.
- 6 (4) Include technical standards and best management practices that
7 address stormwater discharges from existing development, new development,
8 and redevelopment.
- 9 (5) Specify minimum requirements for inspection and maintenance of
10 stormwater management practices.
- 11 (6) Include standards for the management of stormwater runoff from
12 construction sites and other land disturbing activities.
- 13 (7) Allow municipal governments to assume the full legal responsibility
14 for a stormwater system permitted under these rules as a part of a permit issued
15 by the Secretary.
- 16 (8) Include standards with respect to the use of offsets and stormwater
17 impact fees.
- 18 (9) Include minimum standards for the issuance of stormwater permits
19 during emergencies for the repair or maintenance of stormwater infrastructure
20 during a state of emergency declared under 20 V.S.A. chapter 1 or during
21 flooding or other emergency conditions that pose an imminent risk to life or a

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1 risk of damage to public or private property. Minimum standards adopted
2 under this subdivision shall comply with National Flood Insurance Program
3 requirements.

4 (10) To the extent appropriate, authorize in the permitting process use of
5 certifications of compliance by licensed professional engineers practicing
6 within the scope of their engineering specialty.

7 (g) General permits.

8 (1) The Secretary may issue general permits for classes of regulated
9 stormwater runoff that shall be adopted and administered in accordance with
10 the provisions of subsection 1263(b) of this title.

11 (2)(A) The Secretary shall issue by July 1, 2018, a general permit for
12 discharges of regulated stormwater from municipal roads. Under the
13 municipal roads stormwater general permit, the Secretary shall:

14 (i) Establish a schedule for implementation of the general permit
15 by each municipality in the State. Under the schedule, the Secretary shall
16 establish:

17 (I) the date by which each municipality shall apply for
18 coverage under the municipal roads general permit;

19 (II) the date by which each municipality shall inventory
20 necessary stormwater management projects on municipal roads;

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1 (III) the date by which each municipality shall establish a plan
2 for implementation of stormwater improvements that prioritizes stormwater
3 improvements according to criteria established by the Secretary under the
4 general permit; and

5 (IV) the date by which each municipality shall implement
6 stormwater improvements of municipal roads according to a municipal
7 implementation plan.

8 (ii) Establish criteria and technical standards, such as best
9 management practices, for implementation of stormwater improvements of
10 municipal roads.

11 (iii) Establish criteria for municipal prioritization of stormwater
12 improvements of municipal roads. The Secretary shall base the criteria on the
13 water quality impacts of a stormwater discharge, the current state of a
14 municipal road, the priority of a municipal road or stormwater project in any
15 existing transportation capital plan developed by a municipality, and the
16 benefits of the stormwater improvement to the life of the municipal road.

17 (iv) Require each municipality to submit to the Secretary and
18 periodically update its implementation plan for stormwater improvements.

19 (B) The Secretary may require an individual permit for a stormwater
20 improvement at any time under subsection (e) of this section. An individual
21 permit shall include site-specific standards for the stormwater improvement.

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1 (C) All municipalities shall apply for coverage under the municipal
2 road general permit by July 1, 2021.

3 (D) As used in this subdivision (g)(2), “municipality” means a city,
4 town, or village.

5 (3) On or before January 1, 2018, the Secretary shall issue a general
6 permit under this section that shall require the redevelopment or retrofitting of
7 impervious surface of three or more acres in size that previously did not
8 require a stormwater permit under this section. The general permit shall:

9 (A) require that the discharge of stormwater from redeveloped or
10 retrofitted impervious surface comply with the applicable discharge standards
11 of subsection (h) of this section; and

12 (B) allow the use of stormwater impact fees, offsets, and phosphorus
13 credit trading within the watershed of the water to which stormwater
14 discharges or runs off.

15 (h) Permit requirements. An individual or general stormwater permit shall:

16 (1) Be valid for a period of time, not to exceed ten years;

17 (2) For discharges of regulated stormwater to a stormwater impaired
18 water:

19 (A) In which no TMDL, watershed improvement permit, or water
20 quality remediation plan has been approved, require that the discharge shall
21 comply with the following discharge standards:

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1 (i) A new discharge or the expanded portion of an existing
2 discharge shall satisfy the requirements of the Stormwater Management
3 Manual and shall not increase the pollutant load in the receiving water for
4 stormwater; or

5 (ii) For redevelopment of or renewal of a permit for existing
6 impervious surface, the discharge shall satisfy on-site the water quality,
7 recharge, and channel protection criteria set forth in the Stormwater
8 Management Manual that are determined to be technically feasible by an
9 engineering feasibility analysis conducted by the Agency and the discharge
10 shall not increase the pollutant load in the receiving water for stormwater.

11 (B) In which a TMDL or water quality remediation plan has been
12 adopted, the discharge shall satisfy the requirements of the Stormwater
13 Management Manual, and the Secretary shall determine that there is sufficient
14 pollutant load allocations for the discharge.

15 (3) Contain requirements necessary to comply with the minimum
16 requirements of the rules adopted under this section, the Vermont water quality
17 standards, and any applicable provision of the Clean Water Act.

18 (i) Disclosure of violations. The Secretary may, at his or her discretion and
19 as necessary to assure achievement of the goals of the program and compliance
20 with State law and the federal Clean Water Act, deny an application for the
21 discharge of regulated stormwater under this subsection if review of the

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1 applicant's compliance history indicates that the applicant is discharging
2 regulated stormwater in violation of this chapter or is the holder of an expired
3 permit for an existing discharge of regulated stormwater.

4 (j) Presumption. In any appeal under this chapter, an individual permit
5 issued under this section shall have a rebuttable presumption in favor of the
6 permittee that the discharge does not cause or contribute to a violation of the
7 Vermont Water Quality Standards for the receiving waters with respect to the
8 discharge of regulated stormwater runoff.

9 **Sec. 26. ANR REPORT ON REGULATORY THRESHOLD FOR**

10 **PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS**

11 **SURFACES**

12 (a) On or before January 15, 2016, the Secretary of Natural Resources shall
13 submit to the House Committee on Fish, Wildlife and Water Resources and the
14 Senate Committee on Natural Resources and Energy a report regarding
15 whether and how the State should lower from one acre to one-half acre of
16 impervious surface the regulatory permitting threshold for an operating permit
17 for stormwater runoff from new development, redevelopment, or expansion.

18 The report shall include:

19 (1) a recommendation as to whether the State should lower the
20 regulatory permitting threshold from one acre to one-half acre of impervious
21 surface;

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1 (2) an estimate of the number of additional development projects that
2 would require an operating permit for stormwater runoff if the regulatory
3 permitting threshold were lowered from one acre to one-half acre of
4 impervious surface;

5 (3) an estimate of the environmental benefit of reducing the regulatory
6 permitting threshold from one acre to one-half acre of impervious surface; and

7 (4) an estimate of the number of staff that would be needed by the
8 Agency of Natural Resources to effectively implement a stormwater operating
9 permit program with a regulatory permitting threshold of one-half acre of
10 impervious surface.

11 (b) The definitions provided in 10 V.S.A. § 1264 shall apply to this section.

12 Sec. 27. [Reserved; stormwater management practices]

13 * * * Water Quality Data Coordination * * *

14 Sec. 28. 10 V.S.A. § 1284 is added to read:

15 § 1284. WATER QUALITY DATA COORDINATION

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

19 (1) light detection and ranging information data (LIDAR);

20 (2) stream gauge data;

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

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1 (4) water quality monitoring or sampling data;

2 (5) cumulative stressors on a watershed, such as the frequency an

3 activity is conducted within a watershed or the number of stormwater or other

4 permits issued in a watershed; and

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

6 (b) After coordination of the data required under subsection (a) of this

7 section, the Secretary shall:

8 (1) assess where additional data are needed and the best methods for

9 collection of such data;

10 (2) identify and map on a watershed basis areas of the State that are

11 significant contributors to water quality problems or are in critical need of

12 water quality remediation or response.

13 (c) The Secretary shall post all data compiled under this section on the

14 website of the Agency of Natural Resources.

15 * * * Water Quality Funding; Clean Water Fund; Rooms, Meals,

16 and Alcohol Tax * * *

17 Sec. 29. 10 V.S.A. chapter 47, subchapter 7 is added to read:

18 Subchapter 7. Vermont Clean Water Fund

19 § 1387. PURPOSE

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1 The General Assembly establishes in this subchapter a Vermont Clean Water
2 Fund as a mechanism for financing the improvement of water quality in the State.

3 The Clean Water Fund shall be used to:

4 (1) support the Agency of Natural Resources, the Agency of Agriculture,
5 Food and Markets, the Agency of Transportation, and other State agencies in
6 implementation and administration of water quality programs and projects in the
7 State;

8 (2) assist municipalities in complying with water quality requirements and
9 construction or implementation of water quality projects;

10 (3) provide funding to nonprofit organizations, regional associations, and
11 other entities for implementation and administration of community-based water
12 quality programs or projects.

13 § 1388. CLEAN WATER FUND

14 (a) There is created a special fund to be known as the “Clean Water Fund.”
15 Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

16 (1) the Fund shall be administered by the Clean Water Fund Board
17 established under section 1388 of this title;

18 (2) the Fund shall consist of:

19 (A) Revenues dedicated for deposit into the Fund by the General
20 Assembly, including five percent of the meals, rooms, and alcohol taxes levied
21 pursuant to chapter 225 of this title.

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1 (B) Other gifts, donations, and impact fees received from any source,
2 public or private, dedicated for deposit into the Fund and approved by the
3 Board. Gifts or donations submitted to the Fund shall be deductible from the
4 tax levied under 32 V.S.A. chapter 151.

5 (b) The Clean Water Fund Board shall make recommendations on
6 expenditures from the Fund consistent with the following priorities:

7 (1) to provide funding to programs and projects that address sources of
8 water pollution in waters listed as impaired under 33 U.S.C. § 1313(d) or
9 waters contributing to a listed impairment;

10 (2) to provide funding to projects that address water pollution identified
11 as a critical source of water quality pollution;

12 (3) to provide funding to programs or projects that address or repair
13 conditions that increase the risk of flooding or pose a threat to life or
14 property; and

15 (4) to provide funding to innovative nutrient removal technologies and
16 community-based methane digesters that utilize manure, wastewater, and food
17 residuals to produce energy.

18 (c) Unexpended balances and any earnings shall remain in the Fund from
19 year to year.

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1 § 1389. CLEAN WATER FUND BOARD

2 (a) Creation. There is created a Clean Water Fund Board which shall be
3 attached to the Agency of Administration for administrative purposes.

4 (b) Organization of the Board. The Clean Water Fund Board shall be
5 composed of:

6 (1) The Secretary of Administration or designee.

7 (2) The Secretary of Natural Resources or designee.

8 (3) The Secretary of Agriculture, Food and Markets or designee.

9 (4) The Secretary of Commerce and Community Development or
10 designee.

11 (5) The Secretary of Transportation or designee.

12 (6) Three members of the public or the House of Representatives
13 appointed by the Speaker of the House, each of which shall be from separate
14 watersheds of the State. At least one of the members appointed under this
15 subdivision shall be a municipal official.

16 (7) Three members of the public or the Senate appointed by the
17 Committee on Committees, each of which shall be from separate watersheds of
18 the State. At least one of the members appointed under this subdivision shall
19 be a municipal official.

20 (8) Two members of the public appointed by the Governor.

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1 (c) Officers; committees; rules. The Clean Water Fund Board shall
2 annually elect a chair from its members. The Clean Water Fund Board may
3 elect additional officers from its members, establish committees or
4 subcommittees, and adopt procedural rules as necessary and appropriate to
5 perform its work.

6 (d) Member terms. Members of the Clean Water Fund Board appointed by
7 the Governor shall serve initial terms of three years, members appointed by the
8 Speaker of the House shall serve initial terms of two years, and members
9 appointed by the Committee on Committees shall serve initial terms of one
10 year. Thereafter, each of the above appointed members shall serve a term of
11 three years. A vacancy shall be filled by the appointing authority for the
12 remainder of the unexpired term. An appointed member shall not serve more
13 than three consecutive three-year terms.

14 (e) Compensation. Public members of the Clean Water Fund Board may
15 receive compensation according to 32 V.S.A. § 1010(b).

16 (f) Powers and duties of the Clean Water Fund Board.

17 (1) The Clean Water Fund Board shall have the following powers and
18 authority:

19 (A) to receive proposals from the Secretaries of Agriculture, Food,
20 and Markets, of Commerce and Community Development, of Natural
21 Resources, and of Transportation on the expenditures of the Fund;

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1 (B) to make recommendations to the Secretary of Administration
2 regarding the appropriate allocation of funds from the Clean Water Fund for
3 the purposes of developing the State budget; and

4 (C) to pursue and accept grants, gifts, donations, or other funding
5 from any public or private source and to administer such grants, gifts,
6 donations, or funding consistent with the terms of the grant, gift, or donation.

7 (2) The Clean Water Fund Board shall develop:

8 (A) an annual revenue estimate and proposed budget for the Clean
9 Water Fund;

10 (B) measures for determining progress and effectiveness of
11 expenditures for clean water restoration efforts; and

12 (C) the annual Clean Water Investment Report required under section
13 1389 of this title.

14 (3) The Clean Water Fund Board shall solicit public comment and
15 consult with existing organizations interested in improving water quality in
16 Vermont.

17 (g) The Clean Water Fund Board shall have the administrative, technical,
18 and legal assistance of the Agency of Administration, the Agency of Natural
19 Resources, the Agency of Agriculture, Food and Markets, the Agency of
20 Transportation, and the Agency of Commerce and Community Development
21 for those issues or services within the jurisdiction of the respective agency.

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1 The cost of the services provided by agency staff shall be paid from the budget
2 of the agency providing the staff services.

3 § 1390. CLEAN WATER INVESTMENT REPORT

4 Beginning on January 15, 2017, and annually thereafter, the Clean Water
5 Fund Board shall publish a Clean Water Investment Report. The report shall
6 summarize all investments made by the Clean Water Fund Board and other
7 State agencies for clean water restoration over the past calendar year. The
8 report shall include expenditures from the Clean Water Fund, the General
9 Fund, the Transportation Fund, and any other State expenditures for clean
10 water restoration, regardless of funding source. The report shall document
11 progress or shortcomings in meeting established indicators for clean water
12 restoration. The report may also provide an overview of additional funding
13 necessary to meet objectives established for clean water restoration and
14 recommendations for additional revenue to meet those restoration objectives.
15 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not
16 apply to the report required by this section.

17 Sec. 30. 32 V.S.A. § 9241 is amended to read:

18 § 9241. IMPOSITION OF TAX

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

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

| | | |
|----|------------------------|-------------------|
| 5 | \$0.01-0.11 | \$0.01 |
| 6 | 0.12-0.22 | 0.02 |
| 7 | 0.23-0.33 | 0.03 |
| 8 | 0.34-0.44 | 0.04 |
| 9 | 0.45-0.55 | 0.05 |
| 10 | 0.56-0.66 | 0.06 |
| 11 | 0.67-0.77 | 0.07 |
| 12 | 0.78-0.88 | 0.08 |
| 13 | 0.89-1.00 | 0.09 |
| 14 | <u>\$0.01-0.05</u> | <u>\$0.00</u> |
| 15 | <u>0.06-0.15</u> | <u>0.01</u> |
| 16 | <u>0.16-0.26</u> | <u>0.02</u> |
| 17 | <u>0.27-0.36</u> | <u>0.03</u> |
| 18 | <u>0.37-0.47</u> | <u>0.04</u> |
| 19 | <u>0.48-0.57</u> | <u>0.05</u> |
| 20 | <u>0.58-0.68</u> | <u>0.06</u> |
| 21 | <u>0.69-0.78</u> | <u>0.07</u> |

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1 0.79-0.89 0.08

2 0.90-0.99 0.09

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

7 ~~\$.01-.14~~ ~~\$.01~~

8 ~~.15-.24~~ ~~.02~~

9 ~~.25-.34~~ ~~.03~~

10 ~~.35-.44~~ ~~.04~~

11 ~~.45-.54~~ ~~.05~~

12 ~~.55-.64~~ ~~.06~~

13 ~~.65-.74~~ ~~.07~~

14 ~~.75-.84~~ ~~.08~~

15 ~~.85-.94~~ ~~.09~~

16 ~~.95-1.00~~ ~~.10~~

17 \$0.01-0.05 \$0.00

18 0.06-0.14 0.01

19 0.15-0.24 0.02

20 0.25-0.33 0.03

21 0.34-0.43 0.04

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1 0.44-0.52 0.05

2 0.53-0.62 0.06

3 0.70-0.78 0.07

4 0.79-0.88 0.08

5 0.89-0.99 0.09

6 Sec. 31. 32 V.S.A. § 9242(c) is amended to read:

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

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

2 § 435. GENERAL FUND

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

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

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

9 (2) [Repealed.]

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

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

12 of this title;

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

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

15 (7) ~~Meals and~~ 95 percent of the meals, rooms, and alcohol taxes levied

16 pursuant to chapter 225 of this title;

17 (8) [Repealed.]

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

19 609;

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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 * * * Secretary of Administration; Report on Per Parcel Fee * * *

10 Sec. 33. SECRETARY OF ADMINISTRATION REPORT ON PER
11 PARCEL WATER QUALITY FEE

12 (a) On or before January 15, 2016, the Secretary of Administration, after
13 consultation with the Department of Taxes, shall submit to the House
14 Committee on Fish, Wildlife and Water Resources, the Senate Committee on
15 Natural Resources and Energy, the House Committee on Agriculture and
16 Forest Products, the Senate Committee on Agriculture, the House Committee
17 on Ways and Means, and the Senate Committee on Finance a recommendation
18 for establishing a fee on parcels of property in the State for the purpose of
19 raising revenue to fund water quality improvement programs in the State. The
20 recommendation shall include:

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- 1 (1) a tiered per parcel fee that provides for equitable apportionment
2 among all parcel owners, including owners of industrial property, commercial
3 property, residential property, or agricultural lands;
4 (2) an estimate of the amount of revenue to be generated from the
5 proposed per parcel fee;
6 (3) a summary of how assessment of the fee will be administered,
7 collected, and enforced; and
8 (4) a legislative proposal to implement the proposed per parcel fee
9 program.

10 (b) As used in this section, “parcel” shall have the same meaning as defined
11 in section 4152 of this title.

12 * * * Department of Environmental Conservation Water Quality Fees * * *

13 Sec. 34. 3 V.S.A. § 2822 is amended to read:

14 § 2822. BUDGET AND REPORT; POWERS

15 * * *

16 (i) The Secretary shall not process an application for which the applicable
17 fee has not been paid unless the Secretary specifies that the fee may be paid at
18 a different time or unless the person applying for the permit is exempt from the
19 permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons~~
20 ~~who are exempt under 32 V.S.A. § 710 are also exempt from the application~~
21 ~~fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I)~~

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1 ~~and (II) of this section if they otherwise meet the requirements of 32 V.S.A.~~
2 ~~§ 710.~~ Municipalities shall be exempt from the payment of fees under this
3 section except for those fees prescribed in subdivisions (j)(1), ~~(2)~~, (7), (8), (14),
4 and (15) of this section for which a municipality may recover its costs by
5 charging a user fee to those who use the permitted services. Municipalities
6 shall pay fees prescribed in subdivisions (j)(2), (10), (11), and (26), except that
7 a municipality shall also be exempt from those fees for orphan stormwater
8 systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this
9 section when the municipality agrees to become an applicant or co-applicant
10 for an orphan stormwater system under 10 V.S.A. § 1264e for which a
11 municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

12 (j) In accordance with subsection (i) of this section, the following fees are
13 established for permits, licenses, certifications, approvals, registrations, orders,
14 and other actions taken by the Agency of Natural Resources.

15 * * *

16 (2) For discharge permits issued under 10 V.S.A. chapter 47 and orders
17 issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~
18 \$240.00 shall be paid at the time of application for a discharge permit in
19 addition to any application review fee and any annual operating fee, except for
20 permit applications under subdivisions (2)(A)(iii)(III) and (V) of this
21 subsection:

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- 1 (A) Application review fee.
- 2 (i) Municipal, industrial,
- 3 noncontact cooling water, and
- 4 thermal discharges.
- 5 (I) Individual permit: original ~~\$0.0023~~ \$0.003 per gallon
- 6 application; amendment for design flow; minimum
- 7 increased flows; amendment ~~\$50.00~~ \$100.00 per
- 8 for change in treatment process; outfall; maximum
- 9 30,000.00 per application.
- 10 (II) Renewal, transfer, or minor ~~\$0.00~~ \$0.002 per gallon
- 11 amendment of individual permit; design flow; minimum
- 12 \$50.00 per outfall;
- 13 maximum \$5,000.00 per
- 14 application.
- 15 (III) General permit; ~~\$0.00~~
- 16 (ii) Pretreatment discharges.
- 17 (I) Individual permit: original ~~\$0.12~~ \$0.20 per gallon
- 18 application; amendment for design flow; minimum
- 19 increased flows; amendment for ~~\$50.00~~ \$100.00 per
- 20 change in treatment process; outfall.

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1 (II) Renewal, transfer, or minor ~~\$0.00~~ \$0.002 per gallon
2 amendment of individual permit; design flow; minimum
3 \$50.00 per outfall.

4 (iii) Stormwater discharges.

5 (I) Individual operating permit ~~\$430.00~~ \$860.00 per acre
6 or application to operate under impervious area;
7 general operating permit for minimum ~~\$220.00~~
8 collected stormwater runoff \$440.00 per application.
9 which is discharged to Class B
10 waters: original application;
11 amendment for increased flows;
12 amendment for change in
13 treatment process;

14 (II) Individual operating permit \$1,400.00 per acre
15 or application to operate under impervious area;
16 general operating permit for minimum \$1,400.00
17 collected stormwater runoff which per application.
18 is discharged to Class A waters;
19 original application; amendment
20 for increased flows; amendment
21 for change in treatment process.

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- 1 (III) Individual permit or
2 application to operate under
3 general permit for construction
4 activities; original application;
5 amendment for increased acreage.
- 6 (aa) Projects with low risk to ~~\$50.00~~ five acres or
7 waters of the State; ~~;~~ less: \$100.00 per project;
8 original application.
- 9 (bb) Projects with low risk to \$220.00 per project.
10 waters of the State; greater than
11 five acres:
- 12 (cc) Projects with moderate risk ~~\$360.00;~~ five acres
13 to waters of the State; ~~;~~ or less: \$480.00 per
14 project original
15 application.
- 16 ~~(cc) Projects that require an~~ ~~\$720.00 per project~~
17 ~~individual permit.~~ ~~original application.~~
- 18 (dd) Projects with moderate risk \$640.00.
19 to waters of the State; greater
20 than five acres:

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1 (ee) Projects that require an \$1,200.00.
2 individual permit; ten acres
3 or less:
4 (ff) Projects that require an \$1,800.00.
5 individual permit; greater than
6 10 acres:
7 (IV) Individual permit or ~~\$220.00~~ \$440.00 per
8 application to operate under facility.
9 general permit for stormwater
10 runoff associated with industrial
11 activities with specified SIC
12 codes; original application;
13 amendment for change in activities-;
14 (V) Individual permit or ~~\$1,200.00~~ \$2,400.00
15 application to operate under per system.
16 general permit for stormwater
17 runoff associated with
18 municipal separate storm sewer
19 systems; original application; amendment
20 for change in activities-;

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1 (VI) Individual operating permit or application to operate under
2 a general permit for a residually designated stormwater discharge original
3 application; amendment; for increased flows amendment; for change in
4 treatment process.

5 (aa) For discharges to Class B water; ~~\$430.00~~ \$860.00 per
6 acre of impervious area, minimum ~~\$220.00~~ \$280.00.

7 (bb) For discharges to Class A water; ~~\$1,400.00~~ \$1,700.00
8 per acre of impervious area, minimum ~~\$1,400.00~~ \$1,700.00.

9 (VII) Renewal, transfer, or \$0.00,
10 minor amendment of individual
11 permit ~~or approval under~~
12 ~~general permit:~~

13 (VIII) Application for coverage \$400.00 per application.
14 under the municipal roads
15 stormwater general permit:

16 (IX) Application for coverage \$1,200.00.
17 under the State roads stormwater
18 general permit:

19 * * *

20 (B) Annual operating fee.

21 (i) Industrial, noncontact cooling ~~\$0.004~~ \$0.0015 per gallon

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| | | |
|----|-------------------------------------|--|
| 1 | water and thermal discharges; | design capacity. \$150.00 |
| 2 | | <u>\$200.00</u> minimum; |
| 3 | | maximum \$210,000.00. |
| 4 | (ii) Municipal; | \$0.003 per gallon of actual |
| 5 | | <u>design</u> flows. \$150.00 |
| 6 | | <u>\$200.00</u> minimum; |
| 7 | | maximum \$12,500.00. |
| 8 | (iii) Pretreatment discharges; | \$0.0385 <u>\$0.04</u> per gallon |
| 9 | | design capacity. \$150.00 |
| 10 | | <u>\$200.00</u> minimum; |
| 11 | | maximum \$27,500.00. |
| 12 | (iv) Stormwater; | |
| 13 | (I) Individual operating permit | \$255.00 <u>\$310.00</u> per acre |
| 14 | or approval under general operating | impervious area; \$235.00 |
| 15 | permit for collected stormwater | <u>\$310.00</u> minimum. |
| 16 | runoff which is discharged to | |
| 17 | class A waters; | |
| 18 | (II) Individual operating permit | \$80.00 <u>\$160.00</u> per acre |
| 19 | or approval under general operating | impervious area; \$80.00 |
| 20 | permit for collected stormwater | <u>\$160.00</u> minimum. |
| 21 | runoff which is discharged to | |

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1 Class B waters;:

2 (III) Individual permit or ~~\$80.00~~ \$160.00

3 approval under general permit per facility.

4 for stormwater runoff from

5 industrial facilities with

6 specified SIC codes;:

7 (IV) Individual permit or ~~\$80.00 per system~~

8 application to operate under \$10.00 per acre of

9 general permit for stormwater impervious surface within

10 runoff associated with municipal the municipality; annually.

11 separate storm sewer systems;:

12 (V) Individual permit or approval under general permit for

13 residually designated stormwater discharges.

14 (aa) For discharges to Class A water; ~~\$255.00~~ \$310.00 per

15 acre of impervious area, minimum ~~\$255.00~~ \$310.00.

16 (bb) For discharges to Class B water; ~~\$80.00~~ \$160.00 per

17 acre of impervious area, minimum ~~\$80.00~~ \$160.00.

18 (VI) Application to operate under a general permit for

19 stormwater runoff associated with municipal roads: \$2,000.00 per

20 authorization annually.

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1 (VII) Application to operate under a general permit for stormwater
2 runoff associated with State roads: \$90,000.00 per authorization annually.

3 * * *

4 (11) For stream alteration and flood hazard area permits issued under
5 10 V.S.A. ~~chapter~~ chapters 41 and 32: \$225.00 per application.

6 (A) Stream alteration; individual permit: \$350.00.

7 (B) Stream alteration; general permit; reporting category: \$ 200.00.

8 (C) Stream alteration; individual permit; municipal bridge, culvert,
9 and unimproved property protection: \$350.00.

10 (D) Stream alteration; general permit; municipal bridge, culvert, and
11 unimproved property protection: \$200.00.

12 (E) Stream alteration; Agency of Transportation reviews; bridge,
13 culvert, and high risk projects: \$350.00.

14 (F) Flood hazard area; individual permit; State facilities; hydraulic
15 and hydrologic modeling required: \$350.00.

16 (G) Flood hazard area; individual permit; State facilities; hydraulic
17 and hydrologic modeling not required: \$200.00.

18 (H) Flood hazard area; municipal reviews; reviews requiring
19 hydraulic and hydrologic modeling, compensatory storage volumetric analysis,
20 or river corridor equilibrium: \$350.00.

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1 (I) Flood hazard area; municipal review; projects not requiring
2 hydraulic or hydrologic modeling: \$200.00.

3 (J) River corridor; major map amendments: \$350.00.

4 * * *

5 (14) For certification of sewage treatment plant operators issued under
6 10 V.S.A. chapter 47:

7 (A) original application; ~~\$110.00~~ \$125.00.

8 (B) renewal application; ~~\$110.00~~ \$125.00.

9 (15) For sludge or septage facility certifications issued under 10 V.S.A.
10 chapter 159:

11 (A) land application sites; facilities that further reduce pathogens;
12 disposal facilities; ~~\$950.00~~ \$1,000.00 per
13 application.

14 (B) all other types of facilities; ~~\$110.00~~ \$125.00 per
15 application.

16 * * *

17 (26) For individual conditional use determinations, for individual
18 wetland permits, for general conditional use determinations issued under
19 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit,
20 an administrative processing fee assessed under subdivision (2) of this
21 subsection (j) and an application fee of:

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1 (A) \$0.75 per square foot of proposed impact to Class I or II
2 wetlands;

3 (B) \$0.25 per square foot of proposed impact to Class I or II wetland
4 buffers;

5 (C) maximum fee, for the conversion of Class II wetlands or wetland
6 buffers to cropland use, \$200.00 per application. ~~For purposes of~~ As used in
7 this subdivision, “cropland” means land that is used for the production of
8 agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing
9 bushes, trees, or vines and the production of Christmas trees;

10 (D) \$0.25 per square foot of proposed impact to Class I or II wetlands
11 or Class I or II wetland buffer for utility line, pipeline, and ski trail projects
12 when the proposed impact is limited to clearing forested wetlands in a corridor
13 and maintaining a cleared condition in that corridor for the project life;

14 (E) \$1.50 per square foot of impact to Class I or II wetlands when the
15 permit is sought after the impact has taken place;

16 (F) \$100.00 per revision to an application for an individual wetland
17 permit or authorization under a general permit when the supplement is due to a
18 change to the project that was not requested by the Secretary; and

19 (G) minimum fee, \$50.00 per application.

20 * * *

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1 (33) \$10.00 per 1000 gallons based on the rated capacity of the tank
2 being pumped rounded to the nearest 1000 gallon.

3 * * *

4 Sec. **35**. 32 V.S.A. § 710 is amended to read:

5 § 710. PAYMENT OF STATE AGENCY FEES

6 (a) Notwithstanding any other provision of law, the Agency of
7 Transportation, any cooperating municipalities, and their contractors or agents
8 shall be exempt from the payment of fee charges for reviews, inspections, or
9 nonoperating permits issued by the Department of Public Safety, a District
10 Environmental Commission, and the Agency of Natural Resources for any
11 projects undertaken by or for the Agency and any cooperating municipalities
12 for which all or a portion of the funds are authorized by a legislatively
13 approved transportation construction, rehabilitation, or paving program within
14 a general appropriation act introduced pursuant to section 701 of this title
15 except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10),
16 (j)(11), and (j)(26).

17 (b) Notwithstanding any other provision of law, no fees shall be charged
18 for reviews, inspections, or nonoperating permits issued by the Department of
19 Public Safety, a District Environmental Commission, and the Agency of
20 Natural Resources for:

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1 (1) Any project undertaken by the Department of Buildings and General
2 Services, the Agency of Natural Resources or the Agency of Transportation
3 which is authorized or funded in whole or in part by the capital construction
4 act introduced pursuant to section 701a of this title except for those fees
5 established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

6 (2) Any project undertaken by a municipality, which is funded in whole
7 or in part by a grant or loan from the Agency of Natural Resources or the
8 Agency of Transportation financed by an appropriation of a capital
9 construction act introduced pursuant to section 701a of this title except for
10 those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B),
11 (j)(10), (j)(11), and (j)(26). However, all such fees shall be paid for reviews,
12 inspections, or permits required by municipal solid waste facilities developed
13 by a solid waste district which serves, or is expected to serve, in whole or in
14 part, parties located outside its own district boundaries pursuant to 10 V.S.A.
15 chapter 159.

16 * * * Wastewater Treatment Plants; Financial Assistance for

17 Phosphorus Reduction * * *

18 Sec. 36. 10 V.S.A. § 1266a is amended to read:

19 § 1266a. DISCHARGES OF PHOSPHORUS

20 (a) No person directly discharging into the drainage basins of Lake
21 Champlain or Lake Memphremagog shall discharge any waste that contains a

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1 phosphorus concentration in excess of 0.80 milligrams per liter on a monthly
2 average basis. Discharges of less than 200,000 gallons per day, permitted on
3 or before July 1, 1991, shall not be subject to the requirements of this
4 subsection. Discharges from a municipally owned aerated lagoon type
5 secondary sewage treatment plant in the Lake Memphremagog drainage basin,
6 permitted on or before July 1, 1991 shall not be subject to the requirements of
7 this subsection unless the plant is modified to use a technology other than
8 aerated lagoons.

9 (b) Notwithstanding any provision of subsection (a) of this section to the
10 contrary, the Secretary shall establish effluent phosphorus wasteload
11 allocations or concentration limits within any drainage basin in Vermont, as
12 needed to achieve wasteload allocations in a total maximum daily load
13 document approved by the U.S. Environmental Protection Agency, or as
14 needed to attain compliance with water quality standards adopted by the
15 Secretary pursuant to chapter 47 of this title.

16 (c) ~~The Secretary of Natural Resources shall establish a schedule for~~
17 ~~municipalities that requires compliance with this section at a rate that~~
18 ~~corresponds to the rate at which funds are provided under subsection 1625(e)~~
19 ~~of this title. To the extent that funds are not provided to municipalities eligible~~
20 ~~under that subsection, municipal compliance with this section shall not be~~
21 ~~required.~~ [Repealed.]

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1 Sec. 37. 10 V.S.A. § 1625 is amended to read:

2 § 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO
3 ABATE DRY WEATHER SEWAGE FLOWS

4 (a) When the Department finds that a proposed water pollution abatement
5 project is necessary to maintain water quality standards during dry weather
6 sewage flows, and that the proposed type, kind, quality, size, and estimated
7 cost, including operation cost and sewage disposal charges, of the project are
8 suitable for abatement of pollution, and the project or the prescribed project
9 phases are necessary to meet the intent of the water quality classifications
10 established by the Secretary or by statute under chapter 47 of this title, the
11 Department may award to municipalities a State assistance grant of up to
12 25 percent of the eligible project cost, provided that in no case shall the total of
13 the State and federal grants exceed 90 percent of the eligible project costs:

14 (1) except that the 90 percent limitation shall not apply when the
15 municipality provides, as their local share, federal funds allocated to them for
16 the purpose of matching other federal grant programs having a matching
17 requirement; and

18 (2) except that the total of state and federal grants issued under
19 P.L. 92-500 section 202(a)(2) may equal up to 95 percent of the eligible costs
20 for innovative or alternative wastewater treatment processes and techniques.

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1 (b) In carrying out the purposes of this subchapter, the Department shall
2 define the purpose and scope of an eligible project, including a determination
3 of the area to be served, type of treatment, effluent limitations, eligible
4 construction costs, cost accounting procedures and methods and other such
5 project construction, operation and fiscal elements necessary to meet federal
6 aid requirements. The Department shall, as a part of the administration of this
7 grant program, encourage municipalities to undertake capital development
8 planning and to establish water and sewer charges along public utility
9 concepts.

10 (c) Any municipality having proceeded with construction of facilities with
11 a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in
12 the State grant to a total of 35 percent of the eligible project costs.

13 (d) The Department may award a State assistance grant of up to 50 percent
14 of the eligible costs of an approved pollution abatement project or a portion
15 thereof not eligible for federal financial assistance in a municipality that is
16 certified by the Secretary of Commerce and Community Development to be
17 within the designated job development zone. To achieve the objectives of
18 chapter 29, subchapter 2 of this title, the eligibility and priority provisions of
19 this chapter do not apply to municipalities within a designated job development
20 zone.

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1 (e) ~~If the Department finds that a proposed municipal water pollution~~
2 ~~control project is necessary to reduce effluent phosphorus concentration or~~
3 ~~mass loading to the level required in section 1266a of this title, the Department~~
4 ~~shall award to the municipality, subject to the availability of funds, a state~~
5 ~~assistance grant. Such grants shall be for 100 percent of the eligible project~~
6 ~~cost. This funding shall not be available for phosphorus removal projects~~
7 ~~where the effluent concentration must be reduced in order to maintain a~~
8 ~~previously permitted mass loading of phosphorus.~~

9 * * * Acceptable Management Practices for Maintaining Water Quality on

10 Logging Jobs in Vermont * * *

11 Sec. ~~38~~. 10 V.S.A. § 2622 is amended to read:

12 § 2622. RULES; HARVESTING TIMBER; FORESTS; ACCEPTABLE

13 MANAGEMENT PRACTICES FOR MAINTAINING WATER

14 QUALITY

15 (a) The ~~commissioner~~ Commissioner shall adopt rules to establish methods
16 by which the harvest and utilization of timber in private and public forest land
17 forestland will be consistent with continuous forest growth, including
18 reforestation, will prevent wasteful and dangerous forestry practices, will
19 regulate heavy cutting, will encourage good forestry management, will enable
20 and assist landowners to practice good forestry management, and will conserve
21 the natural resources consistent with the purposes and policies of this chapter,

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1 giving due consideration to the need to assure continuous supplies of forest
2 products and to the rights of the owner or operator of the land. ~~Such~~ The rules
3 adopted under this subsection shall be advisory, and not mandatory.

4 ~~(b) except that the~~ The Commissioner shall adopt by rule Acceptable
5 Management Practices for Maintaining Water Quality on Logging Jobs in
6 Vermont in order to comply with the Vermont Water Quality Standards and
7 reduce the risk of discharge to waters of the State. The Acceptable
8 Management Practices for Maintaining Water Quality on Logging Jobs in
9 Vermont shall be mandatory.

10 (c) The rules adopted under section 2625 of this title for the regulation of
11 heavy cutting shall be mandatory as shall other rules specifically authorized to
12 be mandatory.

13 Sec. 39. 10 V.S.A. § 1259(f) is amended to read:

14 (f) The provisions of subsections (c), (d), and (e) of this section shall not
15 regulate accepted agricultural ~~or silvicultural~~ practices, as ~~such are defined~~
16 adopted by rule by the secretary of agriculture, food and markets and the
17 commissioner of forests, parks and recreation, respectively, after an
18 opportunity for a public hearing Secretary of Agriculture, Food and Markets,
19 or the Acceptable Management Practices for Maintaining Water Quality on
20 Logging Jobs in Vermont, as adopted by rule by the Commissioner of Forests,
21 Parks and Recreation; nor shall these provisions regulate discharges from

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1 concentrated animal feeding operations that require a permit under section
2 1263 of this title; nor shall those provisions prohibit stormwater runoff or the
3 discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

4 Sec. 40. 10 V.S.A. § 8003(a) is amended to read:

5 (a) The Secretary may take action under this chapter to enforce the
6 following statutes and rules, permits, assurances, or orders implementing the
7 following statutes, and the Board may take such action with respect to
8 subdivision (10) of this subsection:

9 * * *

10 (17) 10 V.S.A. § 2625, relating to heavy cutting of timber;

11 * * *

12 (25) 10 V.S.A. chapter 83, subchapter 8, relating to the importation of
13 firewood.

14 (26) 10 V.S.A. chapter 168, relating to the collection and disposal of
15 primary batteries.

16 (27) 10 V.S.A. § 2622, relating to the Acceptable Management Practices
17 for Maintaining Water Quality on Logging Jobs in Vermont.

18 Sec. 41. 10 V.S.A. § 8503(a) is amended to read:

19 (a) This chapter shall govern all appeals of an act or decision of the
20 Secretary, excluding enforcement actions under chapters 201 and 211 of this

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1 title and rulemaking, under the following authorities and under the rules
2 adopted under those authorities:

3 (1) The following provisions of this title:

4 * * *

5 (L) section 2625 (regulation of heavy cutting).

6 * * *

7 (V) section 2622 (Acceptable Management Practices for Maintaining
8 Water Quality on Logging Jobs in Vermont).

9 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

10 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

11 Sec. 42. 24 V.S.A. § 4413(d) is amended to read:

12 (d) A bylaw under this chapter shall not regulate accepted agricultural ~~and~~
13 ~~silvicultural~~ practices, including the construction of farm structures, as those
14 practices are defined by the ~~secretary of agriculture, food and markets~~
15 Secretary of Agriculture, Food and Markets or ~~the commissioner of forests,~~
16 ~~parks and recreation~~ Acceptable Management Practices for Maintaining Water
17 Quality on Logging Jobs in Vermont as adopted by rule by the Commissioner
18 of Forests, Parks and Recreation, respectively, under 10 V.S.A. §§ ~~1021(f) and~~
19 ~~1259(f)~~ § 2622 and 6 V.S.A. § 4810.

20 * * *

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1 Sec. 43. ENFORCEMENT OF ACCEPTABLE MANAGEMENT

2 PRACTICES FOR MAINTAINING WATER QUALITY ON

3 LOGGING JOBS IN VERMONT

4 Prior to adoption by rule under 10 V.S.A. § 2622 of the Acceptable
5 Management Practices for Maintaining Water Quality on Logging Jobs in
6 Vermont, the Acceptable Management Practices for Maintaining Water
7 Quality on Logging Jobs in Vermont adopted by the Commissioner as
8 practices shall be mandatory and enforced as mandatory practices by the
9 Commissioner of Forests, Parks and Recreation.

10 * * * Eligibility for Ecosystem Restoration Program Assistance * * *

11 Sec. 44. ECOSYSTEM RESTORATION PROGRAM; CLEAN WATER
12 FUND; ELIGIBILITY FOR FINANCIAL ASSISTANCE

13 It is the policy of the State of Vermont that all municipal separate storm
14 sewer system (MS4) communities in the State shall be eligible for grants and
15 other financial assistance from the Agency of Natural Resources' Ecosystem
16 Restoration Program, the Clean Water Fund, or any other State water quality
17 financing program. A project or proposal that is the subject of an application
18 for a grant or other assistance from the Agency of Natural Resources shall not
19 be denied solely on the basis that the project or proposal may be construed as a
20 regulatory requirement of the MS4 permit program.

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1 Sec. 45. EFFECTIVE DATES

2 This act shall take effect on July 1, 2015, except that:

3 (1) Sec. 3 (small farm certification) shall take effect on July 1, 2017;

4 (2) 6 V.S.A. § 4988(b) of Sec. 10 shall take effect 45 days after the
5 effective date of rules adopted under 6 V.S.A. § 4988(a).

6 (3) Sec. 29 (Clean Water Fund) shall take effect on passage; and

7 (4) [Reserved].

8

9

10

11

12 (Committee vote: _____)

13

14

Representative _____

15

FOR THE COMMITTEE