

1 Introduced by Representative Deen of Westminster

2 Referred to Committee on

3 Date:

4 Subject: Conservation and development; agriculture; water resources; water  
5 quality; Lake Champlain

6 Statement of purpose of bill as introduced: This bill proposes to adopt  
7 multiple provisions related to the remediation and preservation of the waters of  
8 the State.

9 An act relating to improving the quality of State waters

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 \* \* \* Findings; Agricultural Water Quality \* \* \*

12 Sec. 1. PURPOSE; IMPROVEMENT OF WATER QUALITY

13 It is the purpose of this act to:

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

15 (2) authorize proactive measures designed to implement and meet

16 ultimately the impending total maximum daily load (TMDL) plan for Lake

17 Champlain, meet impending TMDL plans for other State waters, and improve

18 water quality across the State;

19 (3) identify cost-effective strategies for the State to address water

20 quality issues; and

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

4   \* \* \* Agricultural Water Quality;

5   Accepted Agricultural Practices \* \* \*

6           Sec. 2. 6 V.S.A. § 4810 is amended to read:

7           § 4810. AUTHORITY; COOPERATION; COORDINATION

8           (a) Agricultural land use practices. In accordance with 10 V.S.A.  
9           § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.  
10           chapter 25 of ~~Title 3~~, and shall implement and enforce agricultural land use  
11           practices in order to reduce the amount of agricultural pollutants entering the  
12           waters of the ~~state~~ State. These agricultural land use practices shall be created  
13           in two categories, pursuant to subdivisions (1) and (2) of this subsection.

14           (1) “Accepted Agricultural Practices” (AAPs) shall be standards to be  
15           followed in conducting agricultural activities in this ~~state~~ State. These  
16           standards shall address activities which have a potential for causing pollutants  
17           to enter the groundwater and waters of the ~~state~~ State, including dairy and  
18           other livestock operations plus all forms of crop and nursery operations and  
19           on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902,  
20           livestock and poultry slaughter and processing activities. The AAPs shall  
21           include, as well as promote and encourage, practices for farmers in preventing

1 pollutants from entering the groundwater and waters of the ~~state~~ State when  
2 engaged in, ~~but not limited to~~, animal waste management and disposal, soil  
3 amendment applications, plant fertilization, and pest and weed control.

4 Persons engaged in farming, as defined in 10 V.S.A. § 6001, who ~~follow~~ are in  
5 compliance with these practices shall be presumed to be in compliance with  
6 water quality standards. AAPs shall be practical and ~~cost-effective~~  
7 cost-effective to implement. The AAPs for groundwater shall include a  
8 process under which the ~~agency~~ Agency shall receive, investigate, and respond  
9 to a complaint that a farm has contaminated the drinking water or groundwater  
10 of a property owner.

11 (2) “Best Management Practices” (BMPs) may be required by the  
12 ~~secretary~~ Secretary on a ~~case-by-case~~ case-by-case basis. ~~Before requiring~~  
13 ~~BMPs, the secretary shall determine that sufficient financial assistance is~~  
14 ~~available to assist farmers in achieving compliance with applicable BMPs.~~  
15 When requiring implementation of a BMP, the Secretary shall inform a farmer  
16 of the resources available to assist the farmer in implementing BMPs and  
17 complying with the Vermont water quality standards. BMPs shall be practical  
18 and cost effective to implement.

19 (b) Cooperation and coordination. The ~~secretary of agriculture, food and~~  
20 ~~markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the  
21 ~~secretary of natural resources~~ Secretary of Natural Resources in implementing

1 and enforcing programs, plans, and practices developed for reducing and  
2 eliminating agricultural non-point source pollutants and discharges from  
3 concentrated animal feeding operations. The ~~secretary of agriculture, food and~~  
4 ~~markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of~~  
5 ~~natural resources~~ Secretary of Natural Resources shall develop a memorandum  
6 of understanding for the non-point program describing program administration,  
7 grant negotiation, grant sharing, and how they will coordinate watershed  
8 planning activities to comply with Public Law 92-500. The ~~secretary of~~  
9 ~~agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and  
10 the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources  
11 shall also develop a memorandum of understanding according to the public  
12 notice and comment process of 10 V.S.A. § 1259(i) regarding the  
13 implementation of the federal concentrated animal feeding operation program  
14 and the relationship between the requirements of the federal program and the  
15 ~~state~~ State agricultural water quality requirements for large, medium, and small  
16 farms under this chapter ~~215 of this title~~. The memorandum of understanding  
17 shall describe program administration, permit issuance, an appellate process,  
18 and enforcement authority and implementation. The memorandum of  
19 understanding shall be consistent with the federal National Pollutant Discharge  
20 Elimination System permit regulations for discharges from concentrated  
21 animal feeding operations. The allocation of duties under this chapter between

1 the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food  
2 and Markets and the ~~secretary of natural resources~~ Secretary of Natural  
3 Resources shall be consistent with the ~~secretary's~~ Secretary's duties,  
4 established under the provisions of 10 V.S.A. § 1258(b), to comply with Public  
5 Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural  
6 Resources shall be the ~~state~~ State lead person in applying for federal funds  
7 under Public Law 92-500, but shall consult with the ~~secretary of agriculture,~~  
8 ~~food and markets~~ Secretary of Agriculture, Food and Markets during the  
9 process. The agricultural non-point source program may compete with other  
10 programs for competitive watershed projects funded from federal funds. The  
11 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and  
12 Markets shall be represented in reviewing these projects for funding. Actions  
13 by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,  
14 Food and Markets under this chapter concerning agricultural non-point source  
15 pollution shall be consistent with the water quality standards and water  
16 pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the  
17 federal Clean Water Act as amended. In addition, the ~~secretary of agriculture,~~  
18 ~~food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate  
19 with the ~~secretary of natural resources~~ Secretary of Natural Resources in  
20 implementing and enforcing programs, plans, and practices developed for the

1 proper management of composting facilities when those facilities are located  
2 on a farm.

3 Sec. 3. 6 V.S.A. § 4810a is added to read:

4 § 4810a. ACCEPTABLE AGRICULTURAL PRACTICES; REVISION

5 (a) On or before July 1, 2016 the Secretary of Agriculture, Food, and  
6 Markets shall amend the accepted agricultural practices to enhance practices  
7 on farms to reduce adverse impacts to water quality and to implement the small  
8 farm certification program required by section 4858 of this title. At a  
9 minimum, the amendments to the accepted agricultural practices shall:

10 (1) Define what constitutes a small farm for the purposes of the  
11 certification required by section 4858 of this title.

12 (2) Require a farm subject to the accepted agricultural practices to stack  
13 manure, store fertilizer, and store other nutrients on the farm in an area that  
14 prevents impacts to private wells. In no case shall manure stacking sites,  
15 fertilizer storage, and other nutrient storage be located within 100 feet of  
16 private wells.

17 (3) Prohibit a farm from stacking or storing manure on lands subject to  
18 annual overflow from adjacent waters.

19 (4) Prohibit a farm from the stacking of manure in a manner that  
20 presents a threat of discharge to a surface water. In no case shall manure be  
21 field stacked on an unimproved site within 100 feet of a surface water.

1           (5) Require the construction and management of barnyards, waste  
2           management systems, animal holding areas, and production areas in a manner  
3           to prevent runoff of waste to a surface water, to groundwater, or across  
4           property boundaries.

5           (6) Establish standards for nutrient management on farms.

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

11          (8) Require a farm, subject to standards established by the Secretary, to  
12          maintain a vegetative buffer zone of perennial vegetation between annual  
13          croplands and the top of the bank of adjoining surface waters. At a minimum  
14          the vegetative buffer standards established by the Secretary shall prohibit the  
15          application of manure on the farm within 25 feet of an adjoining surface water  
16          or within 10 feet of a ditch.

17          (9) Prohibit the construction or siting of a farm structure for the storage  
18          of manure, fertilizer, or pesticide storage within a floodway area identified on a  
19          National Flood Insurance Map on file with a town clerk.

1           (10) Prohibit the construction or siting of a farm structure or the storage  
2           or manure, fertilizer, or pesticides storage within a river corridor designated by  
3           the Secretary of Natural Resources.

4           (11) Establish standards for the exclusion of livestock from surface  
5           waters to prevent erosion and adverse water quality impacts.

6           (12) Establish standards for the management of subsurface agriculture  
7           tile drainage consistent with subsection (b) of this section.

8           (13) Require nutrient management planning on all certified small farms  
9           that manage agricultural wastes.

10          (b) On or before January 15, 2018, the Secretary of Agriculture, Food and  
11          Markets shall amend the accepted agricultural practices in order to include  
12          requirements for reducing nutrient contribution to surface waters from  
13          subsurface agriculture tile drainage.

14          Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT  
15                  ON SUBSURFACE TILE DRAINAGE

16          On or before January 15, 2017, the Secretary of Agriculture, Food and  
17          Markets, after consultation with the Secretary of Natural Resources and the  
18          U.S. Department of Agriculture’s Natural Resource Conservation Service,  
19          shall report to the House Committee on Fish, Wildlife and Water Resources,  
20          the Senate Committee on Natural Resources and Energy, the House Committee  
21          on Agriculture and Forest Products, and the Senate Committee on Agriculture



1 regarding the status of current, scientific research relating to the environmental  
2 management of subsurface agriculture tile drainage and how subsurface  
3 agriculture tile drainage contributes to nutrient loading of surface waters. The  
4 report shall include a recommendation from the Secretary of Agriculture, Food  
5 and Markets regarding how best to manage subsurface agriculture tile drainage  
6 in the State in order to mitigate the contribution of tile drainage to nutrient  
7 loading of surface waters.

8 \* \* \* Agricultural Water Quality;

9 Small Farm Certification and Inspection \* \* \*

10 Sec. 5. 6 V.S.A. § 4858a is added to read:

11 § 4858a. SMALL FARM CERTIFICATION

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

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

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

7        (d) Notice of change of ownership. A person who owns or operates a small  
8        farm shall notify the Secretary of a change of ownership or a change of  
9        operator of a small farm within 30 days of the change. The notification shall  
10       include the certification of small farm compliance required under subsection  
11       (a) of this section.

12       (e)(1) Identification; ranking of water quality needs. During an inspection  
13       of a small farm under this section, the Secretary shall identify areas where the  
14       farm could benefit from capital, structural, or technical assistance in order to  
15       improve or come into compliance with the accepted agricultural practices and  
16       any applicable State water quality permits.

17       (2) Annually, the Secretary shall establish a priority ranking system for  
18       small farms according to the water quality benefit associated with the capital,  
19       structural, or technical improvements identified as needed by the Secretary  
20       during an inspection of the farm.

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

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

7           § 4860. REVOCATION; ENFORCEMENT

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

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

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

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

18 Sec. 7. 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~~ that are

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

14 (b) The Secretary may:

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

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

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

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

5 (d) [Repealed.]

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

11 \* \* \* Agricultural Water Quality; Basin Planning \* \* \*

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

13 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~

14 ~~RESOURCES BOARD ENVIRONMENTAL DIVISION~~

15 (a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,  
16 Food and Markets shall cooperate with the ~~secretary of natural resources~~  
17 Secretary of Natural Resources in the basin planning process with regard to the  
18 agricultural non-point source waste component of each basin plan. Any person  
19 with an interest in the agricultural non-point source component of the basin  
20 planning process may petition the ~~secretary of agriculture, food and markets~~  
21 Secretary of Agriculture, Food and Markets to require, and the ~~secretary~~

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

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

15 (c) ~~Before requiring best management practices under this section, the~~  
16 ~~secretary of agriculture, food and markets or the board shall determine that~~  
17 ~~sufficient financial assistance is available to assist farmers in achieving~~  
18 ~~compliance with applicable best management practices~~ When requiring  
19 implementation of a best management practice, the Secretary shall inform a  
20 farmer of the resources available to assist the farmer in implementing the best

1 management practice and complying with the Vermont water quality  
2 standards.

3 \* \* \* Agricultural Water Quality; Training \* \* \*

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

5 Subchapter 9. Agricultural Water Quality Certification Training

6 § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

7 TRAINING; RULEMAKING

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

12 (1) the prevention of discharges, as that term is defined in 10 V.S.A.  
13 § 1251(3); and

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

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

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

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



1   \* \* \* Agricultural Water Quality;

2   Certification of Custom Applicators \* \* \*

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

4   Subchapter 10. Certification of Custom Applicators of Manure,

5   Nutrients, or Sludge

6       § 4987. DEFINITIONS

7               As used in this subchapter:

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

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

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

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

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

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

21       § 4988. CERTIFICATION OF CUSTOM APPLICATOR

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

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

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

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

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

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

20                \* \* \* Stream Alteration; Agricultural Activities \* \* \*

21       Sec. 11. 10 V.S.A. § 1021 is amended to read:

1 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

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

10 \* \* \*

11 (f) This subchapter shall not apply to:

12 ~~(1) accepted agricultural or silvicultural practices, as defined by the~~  
13 ~~Secretary of Agriculture, Food and Markets, or silvicultural activities subject~~  
14 ~~to accepted management practices adopted by the Commissioner of Forests,~~  
15 ~~Parks and Recreation, respectively; or~~

16 (2) agricultural activities implementing a U.S. Department of  
17 Agriculture Natural Resource Conservation Service conservation practice or a  
18 conservation practice approved by the Secretary of Agriculture, Food and  
19 Markets.

20 \* \* \*

1       Sec. 12. REPORT ON USE OF ACCEPTED AGRICULTURAL  
2                   PRACTICES AS A CONDITION OF PARTICIPATION IN USE  
3                   VALUE APPRAISAL

4       On or before January 15, 2016, the Agency of Agriculture, Food and  
5       Markets (AAFM), after consultation with the Department of Forests, Parks and  
6       Recreation and the Division of Property Valuation and Review (PVR) at the  
7       Department of Taxes, shall submit to the House Committee on Fish, Wildlife  
8       and Water Resources, the Senate Committee on Natural Resources and Energy,  
9       the House Committee on Ways and Means, the Senate Committee on Finance,  
10      the House Committee on Agriculture and Forest Products, and the Senate  
11      Committee on Agriculture a report regarding compliance with the accepted  
12      agricultural practices (AAPs) issued under 6 V.S.A. chapter 215 as a  
13      requirement of eligibility for participation in the use value appraisal program.

14      The report shall include:

15              (1) A proposed plan for implementing a requirement that an owner of  
16      agricultural land certify compliance with the AAPs in order to participate or  
17      continue participation in the use value appraisal program. The plan shall  
18      include:

19                      (A) how the AAFM or PVR would record certifications of AAP  
20      compliance;

1           (B) how the AAFM or PVR would enforce compliance with the  
2           AAPs as a condition of participation in the use value appraisal program; and

3           (C) an estimate of the number of staff and other resources required by  
4           the AAFM or PVR to implement, administer, and enforce the requirement of  
5           compliance with AAPs as a condition of participation in the use value  
6           appraisal program.

7           (2) An estimate of how certification of compliance with the AAPs  
8           would impact the cost of the use value appraisal program to the State of  
9           Vermont, including whether fewer parcels would qualify for enrollment in the  
10          program.

11                   \* \* \* Agency of Natural Resources Basin Planning \* \* \*

12          Sec. 13. 10 V.S.A. § 1253 is amended to read:

13          § 1253. CLASSIFICATION OF WATERS DESIGNATED,  
14                                 RECLASSIFICATION

15   \* \* \*

16          (d) ~~The~~ Through the process of tactical basin planning, the Secretary shall  
17          determine what degree of water quality and classification should be obtained  
18          and maintained for those waters not classified by the Board before 1981  
19          following the procedures in sections 1254 and 1258 of this title. Those waters  
20          shall be classified in the public interest. By January 1, 1993, the Secretary  
21          shall prepare and maintain an overall surface water management plan to ensure

1 that the State water quality standards are met in all State waters. The surface  
2 water management plan shall include a schedule for updating the tactical basin  
3 plans. The Secretary, in consultation with regional planning commissions,  
4 shall revise all ~~17~~ 15 basin plans by January 1, 2006, and update ~~them every~~  
5 ~~five years~~ the basin plans on a five-year rotating basis thereafter. On or before  
6 January ~~1~~ 15 of each year, the Secretary shall report to the House Committees  
7 on Agriculture and Forest Products, on Natural Resources and Energy, and on  
8 Fish, Wildlife and Water Resources, and to the Senate Committees on  
9 Agriculture and on Natural Resources and Energy regarding the progress made  
10 and difficulties encountered in revising basin plans. ~~By January 1, 1993, the~~  
11 ~~Secretary shall prepare an overall management plan to ensure that the water~~  
12 ~~quality standards are met in all State waters. The report shall include a~~  
13 schedule for the production of tactical basin plans in the subsequent calendar  
14 year and a summary of actions to be taken over the subsequent three years.

15 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not  
16 apply to the report to be made under this subsection.

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

- 20 (1) existing and obtainable water qualities;

1           (2) existing and potential use of waters for public water supply,  
2 recreational, agricultural, industrial, and other legitimate purposes;

3           (3) natural sources of pollution;

4           (4) public and private pollution sources and the alternative means of  
5 abating the same;

6           (5) consistency with the State water quality policy established in  
7 10 V.S.A. § 1250;

8           (6) suitability of waters as habitat for fish, aquatic life, and wildlife;

9           (7) need for and use of minimum streamflow requirements;

10          (8) federal requirements for classification and management of waters;

11          (9) consistency with applicable municipal, regional, and State plans; and

12          (10) any other factors relevant to determine the maximum beneficial use  
13 and enjoyment of waters.

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

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

20          

### (h) The Secretary may contract with a regional planning commission to

21 assist in or to produce a basin plan under the timeline set forth in subsection (d)

1 of this section. When contracting with a regional planning commission to  
2 assist in or produce a basin plan, the Secretary may require the regional  
3 planning commission to:

4 (1) Ensure that municipal officials, citizens, watershed groups and other  
5 interested groups and individuals are involved in the basin planning process.

6 (2) Provide technical assistance and data collection activities to inform  
7 municipal officials and the state in making water quality investment decisions.

8 (3) Coordinate municipal planning and adoption or implementation of  
9 municipal development regulations to better meet state water quality policies  
10 and investment priorities.

11 (4) Ensure regional and local input in State water quality policy  
12 development and planning processes.

13 (5) Assist the Secretary in implementing a project evaluation process to  
14 prioritize water quality improvement projects within the region to ensure cost  
15 effective use of State and federal funds.

16 (6) Provide education to municipal officials and citizens regarding the  
17 basin planning process.

18 \* \* \* Stormwater Management \* \* \*

19 Sec. 14. 10 V.S.A. § 1264 is amended to read:

20 § 1264. STORMWATER MANAGEMENT



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

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~~

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.~~

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.~~

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,~~

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. By~~  
15 ~~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~~

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.~~

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.~~



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~~

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~~

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.~~

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~~

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;~~

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~~

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~~

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~~



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.~~

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;~~

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 Findings and intent.~~

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

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

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

19           (B) Direct the Agency to develop a process that assures broad  
20           participation; focuses upon the prevention of pollution; relies on structural  
21           treatment only when necessary; establishes and maintains accountability;

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

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

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

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

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

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

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

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

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

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

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

15 (11) “Stormwater-impaired water” means a State water that the  
16 Secretary determines is significantly impaired by discharges of regulated  
17 stormwater runoff.

18 (12) “Stormwater Management Manual” means the Agency of Natural  
19 Resources’ Stormwater Management Manual, as adopted and amended by rule.

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

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

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

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

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

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

21 (c) Prohibitions.

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

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

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

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

12          (5) A person shall not expand existing impervious surface by more than  
13          5,000 square feet or redevelop more than 5,000 square feet of existing  
14          impervious surface, such that the total resulting impervious area is greater than  
15          one acre, without first obtaining a permit from the Secretary.

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

17               (1) stormwater runoff from farms subject to accepted agricultural  
18               practices adopted by the Secretary of Agriculture, Food and Markets;

19               (2) stormwater runoff from concentrated animal feeding operations that  
20               require a permit under subsection 1263(g) of this chapter; or



1           (3) stormwater runoff from silvicultural activities subject to accepted  
2           management practices adopted by the Commissioner of Forests, Parks and  
3           Recreation;

4           (4) stormwater systems that were permitted under this section and for  
5           which a municipality has assumed full legal responsibility for that stormwater  
6           system.

7           (e) State designation. The Secretary shall require a permit under this  
8           section for a discharge or stormwater runoff from impervious surfaces upon a  
9           designation by the Secretary that the treatment of the discharge or stormwater  
10           runoff is necessary to reduce the adverse impacts to water quality of the  
11           discharge or stormwater runoff taking into consideration the size of the  
12           impervious surface, drainage patterns, hydraulic connectivity, existing  
13           stormwater treatment, or other factors. The Secretary may make this  
14           designation through the basin planning process or on a case-by-case basis.

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 assuring compliance with  
18           the Vermont Water Quality Standards and maintenance after development, as  
19           nearly as possible, of the predevelopment runoff characteristics.

20           (2) Use the basin planning process to establish watershed-specific  
21           priorities for the management of stormwater runoff.

1           (3) Assure consistency with applicable requirements of the federal Clean  
2           Water Act.

3           (4) Include technical standards and best management practices that  
4           address stormwater discharges from existing development, new development,  
5           and redevelopment.

6           (5) Specify minimum requirements for inspection and maintenance of  
7           stormwater management practices.

8           (6) Include standards for the management of stormwater runoff from  
9           construction sites and other land disturbing activities.

10           (7) Allow municipal governments to assume the full legal responsibility  
11           for a stormwater system permitted under these rules as a part of that  
12           municipality's separate storm sewer system permit.

13           (8) Include standards with respect to the use of offsets and stormwater  
14           impact fees.

15           (9) Include minimum standards for the issuance of emergency permits  
16           for the repair or maintenance of stormwater infrastructure during a state of  
17           emergency declared under 20 V.S.A. chapter 1 or during flooding or other  
18           emergency conditions that pose an imminent risk to life or a risk of damage to  
19           public or private property. Minimum standards adopted under this subdivision  
20           shall comply with National Flood Insurance Program requirements.

1        (g) General permits. The Secretary may issue general permits for classes of  
2        regulated stormwater runoff which shall be adopted and administered in  
3        accordance with the provisions of subsection 1263(b) of this title.

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

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

6            (2) For discharges of regulated stormwater in stormwater impaired  
7        waters:

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

11            (i) A new discharge or the expanded portion of an existing  
12       discharge shall satisfy the requirements of the Stormwater Management  
13       Manual and shall not increase the pollutant load in the receiving water for  
14       stormwater; or

15            (ii) A discharge shall satisfy on-site the water quality, recharge,  
16       and channel protection criteria set forth in the Stormwater Management  
17       Manual that are determined to be technically feasible by an engineering  
18       feasibility analysis conducted by the Agency and if the pollutant load from the  
19       discharge approximates the natural runoff from an undeveloped field or open  
20       meadow that is not used for agricultural activity.

1           (B) In which a TMDL or water quality remediation plan has been  
2           adopted, require there is sufficient pollutant load allocations for the discharge.

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

6           (i) Disclosure of violations. The Secretary may, at his or her discretion and  
7           as necessary to assure achievement of the goals of the program and compliance  
8           with State law and the federal Clean Water Act, deny an application for the  
9           discharge of regulated stormwater under this subsection if review of the  
10           applicant’s compliance history indicates that the applicant is discharging  
11           regulated stormwater in violation of this chapter or is the holder of an expired  
12           permit for an existing discharge of regulated stormwater.

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

14           Sec. 15. 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) identifying  
20           water quality issues;

21                   (2) stream gauge data;

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

2           (4) water quality monitoring or sampling data;

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

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

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

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

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

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

16           \* \* \* Water Quality Funding; Clean Water Restoration Fund \* \* \*

17           Sec. 16. 10 V.S.A. § 1285 is added to read:

18           § 1285. CLEAN WATER RESTORATION FUND

19           (a) Creation of Fund. There is created a special fund in the State Treasury  
20 to be known as the “Clean Water Restoration Fund” to be administered and  
21 expended by the Secretary of Administration to fund administration and

1 implementation of the water quality remediation and protection programs  
2 within the State.

3 (b) The Fund shall consist of:

4 (1) those revenues, fees, and other funding sources designated by statute  
5 for deposit in the Fund;

6 (2) private gifts, bequests, grants, or donations of any amount made to  
7 the State from any public or private source for the purposes for which the Fund  
8 was established;

9 (3) such sums as may be appropriated or transferred by the General  
10 Assembly.

11 (c) Disbursements from the Fund. The Secretary of Administration, after  
12 consultation with the Secretary of Natural Resources, the Secretary of  
13 Agriculture, Food and Markets, the Secretary of Transportation, and the  
14 Secretary of Commerce and Community Development, may authorize  
15 disbursement or expenditures from the Fund for administration or  
16 implementation of water quality restoration and protection activities in the  
17 State. Disbursements from the Fund may be made for the following activities:

18 (1) management, control, or remediation of stormwater runoff from  
19 impervious surface;

20 (2) agricultural conservation practices designed to control agricultural  
21 discharges or runoff to State waters;

1           (3) when adequate monies are available in the Fund, construction,  
2           upgrade or retrofitting of municipal roads and other transportation  
3           infrastructure in order to reduce discharges or runoff to State waters;

4           (4) upgrade and retrofitting of State roads and other transportation  
5           infrastructure that do not qualify for federal funding in order to reduce  
6           discharges or runoff to State waters;

7           (5) education and outreach activities conducted to inform interested  
8           parties of the need to protect and improve water quality in the State; and

9           (6) water quality monitoring.

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

13           (1) First priority shall be given to proposed projects or programs to  
14           address areas of high risk of pollution or high loading of sediment to a water  
15           listed as impaired on the list of waters required by 33 U.S.C. § 1313(d).

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

19           (3) Next priority shall be given to projects identified by the Secretary as  
20           significant contributors to water quality problems or in critical need of water  
21           quality remediation or response.

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

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

6           (e) Secretary of Administration discretion. The Secretary of  
7           Administration may award financial assistance under this section for a project  
8           or program that otherwise would not receive assistance under the priorities  
9           established under subsection (d) of this section when the Secretary determines  
10           a severe risk to water quality or risk of discharge exists which requires  
11           immediate abatement.

12           (f) Interest. Interest earned by the Fund shall be credited and deposited to  
13           the Fund. All balances in the Fund at the end of the fiscal year shall be carried  
14           forward and remain a part of the Fund.

15           (g) Rule. The Secretary may adopt by rule additional priorities for the  
16           award of loans or grants in order to ensure equity in the distribution of awards  
17           under this section among regions of the State, watersheds, service sectors, or  
18           land use categories.



1       Sec. 17. ECOSYSTEM RESTORATION PROGRAM; ELIGIBILITY FOR  
2                                   FINANCIAL ASSISTANCE

3           It is the policy of the State of Vermont that all municipal separate storm  
4           sewer system (MS4) communities in the State shall be eligible for grants and  
5           other financial assistance from the Agency of Natural Resources' Ecosystem  
6           Restoration Program or any other State water quality financing program. A  
7           project or proposal that is the subject of an application for a grant or other  
8           assistance from the Agency of Natural Resources shall not be denied solely on  
9           the basis that the project or proposal may be construed as a regulatory  
10          requirement of the MS4 permit program.

11                                   \* \* \* Shoreland Contractor Certification \* \* \*

12       Sec. 18. VOLUNTARY SHORELAND EROSION CONTROL  
13                                   CERTIFICATION PROGRAM

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

15                   (1) "Impervious surface" shall have the same meaning as in 10 V.S.A.  
16           § 1264.

17                   (2) "Lake" means a body of standing water, including a pond or a  
18           reservoir, which may have natural or artificial water level control. Private  
19           ponds shall not be considered lakes.

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

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

6           (b) Voluntary certification. The Agency of Natural Resources, in  
7           consultation with the Associated General Contractors of Vermont, shall  
8           develop an optional shoreland erosion control certification program. The  
9           program shall include training related to the disturbance of soil, clearance of  
10           vegetation, and construction of impervious surfaces of more than 1,000 square  
11           feet in a shoreland area. The voluntary certification program shall end after  
12           three years of operation.

13           (c) Report. After two years of operation of the certification program, the  
14           Agency of Natural Resources shall report to the House and Senate Committees  
15           on Natural Resources and Energy and the House Committee on Fish, Wildlife  
16           and Water Resources regarding the voluntary shoreland erosion control  
17           certification program created in subsection (b) of this section. The report shall  
18           include:

19           (1) a general summary of the program’s success, including an overview  
20           of shoreland projects constructed by certified persons;

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

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

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

5           (d) Exception. The requirements of this section shall not apply to the  
6           owner or operator of a farm conducting agricultural activities on the farm that  
7           comply with the rules adopted by the Secretary of Agriculture, Food and  
8           Markets under 6 V.S.A. chapter 215, regarding agricultural water quality,  
9           including accepted agricultural practices, best management practices, animal  
10           waste permits, and large farm permits. The requirements of this section shall  
11           apply to a person, other than an employee of the owner or operator of the farm,  
12           who charges for the service of tillage, harvesting, or other agricultural activity  
13           that disturbs soil, clears vegetation, or constructs impervious surface of more  
14           than 500 square feet in a shoreland area.

15           Sec. 19. EFFECTIVE DATES

16           This act shall take effect on July 1, 2015, except that Sec. 5 (small farm  
17           certification) shall take effect on July 1, 2017.