

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 * * * Findings * * *

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 proactive measures designed to implement and meet
12 ultimately 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 cost-effective strategies for the State to address water
16 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.

1 * * * Agricultural Water Quality;
2 Accepted Agricultural Practices * * *

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

4 § 4810. AUTHORITY; COOPERATION; COORDINATION

5 (a) Agricultural land use practices. In accordance with 10 V.S.A.
6 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.
7 chapter 25 ~~of Title 3~~, and shall implement and enforce agricultural land use
8 practices in order to reduce the amount of agricultural pollutants entering the
9 waters of the ~~state~~ State. These agricultural land use practices shall be created
10 in two categories, pursuant to subdivisions (1) and (2) of this subsection.

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

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

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

16 (b) Cooperation and coordination. The ~~secretary of agriculture, food and~~
17 ~~markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the
18 ~~secretary of natural resources~~ Secretary of Natural Resources in implementing
19 and enforcing programs, plans, and practices developed for reducing and
20 eliminating agricultural non-point source pollutants and discharges from
21 concentrated animal feeding operations. The ~~secretary of agriculture, food and~~

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

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

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

2 § 4810a. ACCEPTABLE AGRICULTURAL PRACTICES; REVISION

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

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

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

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

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

20 (5) Require the construction and management of barnyards, waste
21 management systems, animal holding areas, and production areas in a manner

1 to prevent runoff of waste to a surface water, to groundwater, or across
2 property boundaries.

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

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

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

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

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

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

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

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

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

11 Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT

12 ON SUBSURFACE TILE DRAINAGE

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

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

5 * * * Agricultural Water Quality;

6 Small Farm Certification and Inspection * * *

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

8 § 4858a. SMALL FARM CERTIFICATION

9 (a) Required small farm certification. A person who owns or operates a
10 small farm shall certify compliance with the accepted agriculture practices.

11 The Secretary of Agriculture, Food and Markets shall certify the requirements
12 and manner of certification, provided that the Secretary shall require an owner
13 or operator of a farm to submit a certification at least once every five years.

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

19 (c) Small farm inspection. The Secretary may inspect a small farm in the
20 State at any time for the purposes of assessing compliance by the small farm
21 with the accepted agricultural practices and determining consistency with a

1 certification of compliance submitted by the person who owns or operates the
2 small farm. The Secretary may prioritize inspections of small farms in the
3 State based on identified water quality issues posed by a small farm.

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

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

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

18 (3) Notwithstanding the priority system established by subdivision (2) of
19 this subsection, the Secretary may provide financial assistance to a small farm
20 at any time, regardless of the priority ranking system, if the Secretary

1 determines that the farm needs assistance to address a water quality issue that
2 requires immediate abatement.

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

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

5 Subchapter 8. 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 § 4988. CERTIFICATION OF CUSTOM APPLICATOR

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

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

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

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

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

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

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

2 Sec. 8. 6 V.S.A. chapter 215, subchapter 10 is added to read:

3 Subchapter 10. Enforcement

4 § 4991. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

5 (a)(1) When the Secretary of Agriculture, Food and Markets determines
6 that a person engaged in farming is managing a farm in violation of the
7 requirements of this chapter, rules adopted under this chapter, or a permit or
8 certification issued under this chapter, the Secretary may issue a written
9 warning that shall be served in person or by certified mail, return receipt
10 requested. A warning issued under this subsection shall include:

11 (A) a brief description of the alleged violation;

12 (B) identification of this statute;

13 (C) identification of the applicable statute, rule, or permit condition
14 violated;

15 (D) the required corrective actions that the person shall take to
16 correct the violation; and

17 (E) a summary of federal and State assistance programs that may be
18 utilized by the person to assist in correcting the violation.

19 (2) A person issued a warning under this subsection shall have 30 days
20 to respond to the written warning and shall provide an abatement schedule for

1 curing the violation and a description of the corrective action to be taken to
2 cure the violation.

3 (3) If a person who receives a warning under this subsection fails to
4 respond in a timely manner to the written warning or to take corrective action,
5 the Secretary may act pursuant to subsection (b) or (c) of this section in order
6 to protect water quality.

7 (b) The Secretary may:

8 (1) Issue cease and desist orders in accordance with the requirements of
9 sections 15, 16, and 17 of this title

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

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

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

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

19 (3) Institute appropriate proceedings on behalf of the Agency of
20 Agriculture, Food and Markets to enforce the requirements of this chapter.

1 rules adopted under this chapter, or a permit or certification issued under this
2 chapter.

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

9 (5) Seek administrative or civil penalties in accordance with the
10 requirements of section 15, 16, 17, or 4993 of this title. Notwithstanding the
11 requirements of section 15 of this title to the contrary, the maximum
12 administrative penalty issued by the Secretary under this section shall not
13 exceed \$5,000.00 for each violation, and the maximum amount of any penalty
14 assessed for separate and distinct violations of this chapter shall not exceed
15 \$50,000.00.

16 (c) A person may request a hearing on a cease and desist order or an
17 emergency order issued under this section within five days of receipt of the
18 order. Upon receipt of a request for a hearing, the Secretary promptly shall set
19 a date and time for a hearing. A request for a hearing on a cease and desist
20 order or emergency order issued under this section shall not stay the order.

1 (d) Any person subject to an enforcement order or an administrative
2 penalty who is aggrieved by a final decision of the Secretary may appeal to the
3 Superior Court within 30 days of the decision. The administrative judge may
4 specially assign an Environmental judge to Superior Court for the purpose of
5 hearing an appeal.

6 § 4992. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

7 The Secretary may revoke or condition coverage under a general permit, an
8 individual permit, a small farm certification, or other permit or certification
9 issued under this chapter or rules adopted under this chapter after following the
10 same process prescribed by section 2705 of this title regarding the revocation
11 of a handler's license. The Secretary may also seek enforcement remedies and
12 penalties under this subchapter against any person who fails to comply with
13 any term, provision, or requirements of a permit or certification required by
14 this chapter or who violates the terms or conditions of coverage under any
15 general permit, any individual permit, or any certification issued under this
16 chapter.

17 § 4993. CIVIL ENFORCEMENT

18 (a) The Secretary may bring an action in the Civil Division of the Superior
19 Court to enforce the requirements of this chapter, or rules adopted under this
20 chapter, or any permit or certification issued under this chapter, to ensure
21 compliance, and to obtain penalties in the amounts described in subsection (b)

1 of this section. The action shall be brought by the Attorney General in the
2 name of the State.

3 (b) The court may grant temporary and permanent injunctive relief,
4 and may:

5 (1) Enjoin future activities.

6 (2) Order corrective actions to be taken to mitigate or curtail any
7 violation and to protect human health or the environment, including the
8 removal of livestock from the farm or production area when the volume of
9 wastes produced by livestock exceeds the infrastructure capacity of the farm or
10 its production area to manage the waste or waste leachate to prevent runoff or
11 leaching of wastes to waters of the State or groundwater as required by the
12 standards in this chapter.

13 (3) Order the design, construction, installation, operation, or
14 maintenance of facilities designed to mitigate or prevent a violation of this
15 chapter or to protect human health or the environment or designed to assure
16 compliance.

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

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

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

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

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

14 (A) a violation exists; or

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

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

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

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

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

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

7 (3) whether the respondent knew or had reason to know the violation
8 existed;

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

10 (5) the deterrent effect of the penalty;

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

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

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

15 Sec. 9. 6 V.S.A. § 4812 is amended to read:

16 § 4812. ~~CORRECTIVE ACTIONS~~

17 ~~(a) When the Secretary of Agriculture, Food and Markets determines that a~~
18 ~~person engaged in farming is managing a farm using practices which are~~
19 ~~inconsistent with the requirements of this chapter or rules adopted under this~~
20 ~~subchapter, the Secretary may issue a written warning which shall be served in~~
21 ~~person or by certified mail, return receipt requested. The warning shall include~~

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

11 (b) The Secretary may:

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

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

16 (c) Whenever the Secretary believes that any person engaged in farming is
17 in violation of this subchapter or rules adopted thereunder, an action may be
18 brought in the name of the Agency in a court of competent jurisdiction to
19 restrain by temporary or permanent injunction the continuation or repetition of
20 the violation. The court may issue temporary or permanent injunctions, and
21 other relief as may be necessary and appropriate to curtail any violations.

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

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

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

8 § 4854. **REVOCACTION; ENFORCEMENT**

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

1 Sec. 11. 6 V.S.A. § 4858(b) is amended to read:

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

7 * * *

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

12 * * *

13 Sec. 12. 6 V.S.A. § 4860 is amended to read:

14 § 4860. ~~REVOCATION; ENFORCEMENT~~

15 (a) ~~The secretary may revoke coverage under a general permit or an~~
16 ~~individual permit issued under this subchapter after following the same process~~
17 ~~prescribed by section 2705 of this title regarding the revocation of a handler’s~~
18 ~~license. The secretary may also seek enforcement remedies under sections 1,~~
19 ~~11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty~~
20 ~~under section 15 of this title from any person who fails to comply with any~~
21 ~~permit provision as required by this subchapter or who violates the terms or~~

1 ~~conditions of coverage under any general permit or any individual permit~~
2 ~~issued under this subchapter. However, notwithstanding provisions of section~~
3 ~~15 of this title to the contrary, the maximum administrative penalty assessed~~
4 ~~for a violation of this subchapter shall not exceed \$5,000.00 for each violation,~~
5 ~~and the maximum amount of any penalty assessed for separate and distinct~~
6 ~~violations of this chapter shall not exceed \$50,000.00.~~

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

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

1 * * * Agricultural Water Quality; Basin Planning * * *

2 Sec. 13. 6 V.S.A. § 4813 is amended to read:

3 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~

4 ~~RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

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

19 (b) Any person engaged in farming that has been required by the ~~secretary~~
20 ~~of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to
21 implement best management practices or any person who has petitioned the

1 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
2 Markets under subsection (a) of this section may appeal the ~~secretary of~~
3 ~~agriculture, food and market's~~ Secretary of Agriculture, Food and Markets'
4 decision to the ~~environmental division~~ Environmental Division de novo.

5 (c) ~~Before requiring best management practices under this section, the~~
6 ~~secretary of agriculture, food and markets or the board shall determine that~~
7 ~~sufficient financial assistance is available to assist farmers in achieving~~
8 ~~compliance with applicable best management practices~~ When requiring
9 implementation of a best management practice, the Secretary shall inform a
10 farmer of the resources available to assist the farmer in implementing the best
11 management practice and complying with the Vermont water quality
12 standards.

13 * * * Stream Alteration; Agricultural Activities * * *

14 Sec. 14. 10 V.S.A. § 1021 is amended to read:

15 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

16 (a) A person shall not change, alter, or modify the course, current, or cross
17 section of any watercourse or of designated outstanding resource waters,
18 within or along the boundaries of this State either by movement, fill, or
19 excavation of ten cubic yards or more of instream material in any year, unless
20 authorized by the Secretary. A person shall not establish or construct a berm in
21 a flood hazard area or river corridor, as those terms are defined in subdivisions

1 752(3) and (11) of this title, unless permitted by the Secretary or constructed as
2 an emergency protective measure under subsection (b) of this section.

3 * * *

4 (f) This subchapter shall not apply to:

5 (1) ~~accepted agricultural or silvicultural practices, as defined by the~~
6 Secretary of Agriculture, Food and Markets, or **timber harvesting** activities
7 subject to accepted management practices adopted by the Commissioner of
8 Forests, Parks and Recreation, ~~respectively; or~~

9 (2) **the stabilization of streambanks on a farm that is implementing** a
10 U.S. Department of Agriculture Natural Resource Conservation Service
11 conservation practice or a conservation practice approved by the Secretary of
12 Agriculture, Food and Markets, **provided that the practice consistent with**
13 **policies adopted by the Secretary of Natural Resources to reduce fluvial**
14 **erosion hazards.**

15 * * *

16 * * * Use Value Appraisal; Compliance with

17 Accepted Agricultural Practices * * *

18 Sec. 15. 32 V.S.A. § 3756(i) is amended to read:

19 (i)(1) The Director shall remove from use value appraisal an entire parcel
20 of managed forest land forestland and notify the owner in accordance with the
21 procedure in subsection (b) of this section when the Department Commissioner

1 of Forests, Parks and Recreation has not received a management activity report
2 or has received an adverse inspection report, unless the lack of conformance
3 consists solely of the failure to make prescribed planned cutting. In that case,
4 the Director may delay removal from use value appraisal for a period of one
5 year at a time to allow time to bring the parcel into conformance with the plan.

6 (2)(A) The Director shall remove from use value appraisal an entire
7 parcel or parcels of agricultural land and farm buildings identified by the
8 Secretary of Agriculture, Food and Markets as being used by a person:

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

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

14 (B) The Director shall notify the owner that the land has been
15 removed by mailing such notification to the owner's last and usual place of
16 abode. After a parcel or building has been removed from use value appraisal
17 upon notification from the Agency of Agriculture, Food and Markets, a new
18 application for use value appraisal will not be considered for a period of one
19 year after certification from the Agency that there has been compliance with
20 the standards or order.

1 Sec. 16. 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 a parcel or building pursuant to notification
13 from the Secretary of Agriculture, Food and Markets under subsection 3756(i)
14 of this title, the exclusive right of appeal shall be as provided in 6 V.S.A.
15 chapter 215.

16 * * * Agency of Natural Resources Basin Planning * * *

17 Sec. 17. 10 V.S.A. § 1253 is amended to read:

18 § 1253. CLASSIFICATION OF WATERS DESIGNATED,
19 RECLASSIFICATION

20 * * *

1 (d) ~~The~~ Through the process of basin planning, the Secretary shall
2 determine what degree of water quality and classification should be obtained
3 and maintained for those waters not classified by the Board before 1981
4 following the procedures in sections 1254 and 1258 of this title. Those waters
5 shall be classified in the public interest. By January 1, 1993, the Secretary
6 shall prepare and maintain an overall surface water management plan to ensure
7 that the State water quality standards are met in all State waters. The surface
8 water management plan shall include a schedule for updating the basin plans.
9 The Secretary, in consultation with regional planning commissions, shall revise
10 all ~~17~~ 15 basin plans by January 1, 2006, and update ~~them every five years~~ the
11 basin plans on a five-year rotating basis thereafter. On or before January ~~1~~ 15
12 of each year, the Secretary shall report to the House Committees on
13 Agriculture and Forest Products, on Natural Resources and Energy, and on
14 Fish, Wildlife and Water Resources, and to the Senate Committees on
15 Agriculture and on Natural Resources and Energy regarding the progress made
16 and difficulties encountered in revising basin plans. ~~By January 1, 1993, the~~
17 ~~Secretary shall prepare an overall management plan to ensure that the water~~
18 ~~quality standards are met in all State waters.~~ The report shall include a
19 schedule for the production of basin plans in the subsequent calendar year and
20 a summary of actions to be taken over the subsequent three years. The

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

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

- 6 (1) existing and obtainable water qualities;
- 7 (2) existing and potential use of waters for public water supply,
8 recreational, agricultural, industrial, and other legitimate purposes;
- 9 (3) natural sources of pollution;
- 10 (4) public and private pollution sources and the alternative means of
11 abating the same;
- 12 (5) consistency with the State water quality policy established in
13 10 V.S.A. § 1250;
- 14 (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
- 15 (7) need for and use of minimum streamflow requirements;
- 16 (8) federal requirements for classification and management of waters;
- 17 (9) consistency with applicable municipal, regional, and State plans; and
- 18 (10) any other factors relevant to determine the maximum beneficial use
19 and enjoyment of waters.

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

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

7 (h) The Secretary may contract with a regional planning commission to
8 assist in or to produce a basin plan under the timeline set forth in subsection (d)
9 of this section. When contracting with a regional planning commission to
10 assist in or produce a basin plan, the Secretary may require the regional
11 planning commission to:

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

14 (2) provide technical assistance and data collection activities to inform
15 municipal officials and the State in making water quality investment decisions;

16 (3) coordinate municipal planning and adoption or implementation of
17 municipal development regulations to better meet State water quality policies
18 and investment priorities;

19 (4) ensure regional and local input in State water quality policy
20 development and planning processes;

1 (5) assist the Secretary in implementing a project evaluation process to
2 prioritize water quality improvement projects within the region to ensure cost
3 effective use of State and federal funds;

4 (6) provide education to municipal officials and citizens regarding the
5 basin planning process.

6 * * * Antidegradation Policy Implementation Rule * * *

7 Sec. 18. 10 V.S.A. § 1251a(c) is amended to read:

8 (c) On or before ~~January 15, 2008~~ July 1, 2016, the Secretary of Natural
9 Resources shall ~~propose draft rules for~~ adopt by rule an implementation
10 process for the antidegradation policy in the water quality standards of the
11 State. The implementation process for the antidegradation policy shall be
12 consistent with the State water quality policy established in section 1250 of
13 this title, the Vermont Water Quality Standards, and any applicable
14 requirements of the federal Clean Water Act. ~~On or before July 1, 2008, a~~
15 ~~final proposal of the rules for an implementation process for the~~
16 ~~antidegradation policy shall be filed with the Secretary of State under 3 V.S.A.~~
17 ~~§ 841.~~

1 * * * Stormwater Management * * *

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

3 § 1264. STORMWATER MANAGEMENT

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

6 ~~sedimentation, and local flooding, all of which have adverse impacts on the~~

7 ~~water and land resources of the State. The General Assembly intends, by~~

8 ~~enactment of this section, to reduce the adverse effects of stormwater runoff.~~

9 ~~The General Assembly determines that this intent may best be attained by a~~

10 ~~process that: assures broad participation; focuses upon the prevention of~~

11 ~~pollution; relies on structural treatment only when necessary; establishes and~~

12 ~~maintains accountability; tailors strategies to the region and the locale; assures~~

13 ~~an adequate funding source; builds broadbased programs; provides for the~~

14 ~~evaluation and appropriate evolution of programs; is consistent with the federal~~

15 ~~Clean Water Act and the State water quality standards; and accords appropriate~~

16 ~~recognition to the importance of community benefits that accompany an~~

17 ~~effective stormwater runoff management program. In furtherance of these~~

18 ~~purposes, the Secretary shall implement two stormwater permitting programs.~~

19 ~~The first program is based on the requirements of the federal National~~

20 ~~Pollutant Discharge Elimination System (NPDES) permit program in~~

21 ~~accordance with section 1258 of this title. The second program is a State~~

1 ~~permit program based on the requirements of this section for the discharge of~~
2 ~~“regulated stormwater runoff” as that term is defined in subdivision (11) of this~~
3 ~~subsection. As used in this section:~~

4 (1) ~~“2002 Stormwater Management Manual” means the Agency of~~
5 ~~Natural Resources’ Stormwater Management Manual dated April 2002, as~~
6 ~~amended from time to time by rule.~~

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

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

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

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

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

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

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

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

15 ~~(10) “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 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 ~~(11) “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 ~~(12) “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 ~~(13) “Stormwater-impaired water” means a State water that the~~
16 ~~Secretary determines is significantly impaired by discharges of regulated~~
17 ~~stormwater runoff.~~

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

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

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

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

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

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

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

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

13 ~~(b) The Secretary shall prepare a plan for the management of collected~~
14 ~~stormwater runoff found by the Secretary to be deleterious to receiving waters.~~
15 ~~The plan shall recognize that the runoff of stormwater is different from the~~
16 ~~discharge of sanitary and industrial wastes because of the influence of natural~~
17 ~~events of stormwater runoff, the variations in characteristics of those runoffs,~~
18 ~~and the increased stream flows and natural degradation of the receiving water~~
19 ~~quality at the time of discharge. The plan shall be cost effective and designed~~
20 ~~to minimize any adverse impact of stormwater runoff to waters of the State.~~
21 ~~By no later than February 1, 2001, the Secretary shall prepare an enhanced~~

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

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

12 ~~(2) Allow for differences in hydrologic characteristics in different parts~~
13 ~~of the State.~~

14 ~~(3) Incorporate stormwater management into the basin planning process~~
15 ~~conducted under section 1253 of this title.~~

16 ~~(4) Assure consistency with applicable requirements of the federal Clean~~
17 ~~Water Act.~~

18 ~~(5) Address stormwater management in new development and~~
19 ~~redevelopment.~~

20 ~~(6) Control stormwater runoff from construction sites and other land~~
21 ~~disturbing activities.~~

1 ~~(7) Indicate that water quality mitigation practices may be required for~~
2 ~~any redevelopment of previously developed sites, even when~~
3 ~~preredevelopment runoff characteristics are proposed to be maintained.~~

4 ~~(8) Specify minimum requirements for inspection and maintenance of~~
5 ~~stormwater management practices.~~

6 ~~(9) Promote detection and elimination of improper or illegal connections~~
7 ~~and discharges.~~

8 ~~(10) Promote implementation of pollution prevention during the conduct~~
9 ~~of municipal operations.~~

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

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

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

20 ~~(e) The Secretary shall submit the program report to the House Committees~~
21 ~~on Agriculture and Forest Products, on Transportation, and on Natural~~

1 ~~Resources and Energy and to the Senate Committees on Agriculture and on~~
2 ~~Natural Resources and Energy.~~

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

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

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

11 ~~(B) requirements concerning the contents of permit applications that~~
12 ~~include, at a minimum, for regulated stormwater runoff, the permit application~~
13 ~~requirements contained in the Agency's 1997 stormwater management~~
14 ~~procedures;~~

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

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

1 development, redevelopment, and expansion of impervious surfaces equal to or
2 greater than one acre; and

3 ~~(E) requirements concerning a permit for discharges of regulated~~
4 ~~stormwater runoff from an impervious surface of any size to~~
5 ~~stormwater impaired waters if the Secretary determines that treatment is~~
6 ~~necessary to reduce the adverse impact of such stormwater discharges due to~~
7 ~~the size of the impervious surface, drainage patterns, hydraulic connectivity,~~
8 ~~existing stormwater treatment, or other factors identified by the Secretary.~~

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

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

1 ~~condition of the stormwater management system. The permit shall contain~~
2 ~~additional conditions, requirements, and restrictions as the Secretary deems~~
3 ~~necessary to achieve and maintain compliance with the water quality standards,~~
4 ~~including requirements concerning recording, reporting, and monitoring the~~
5 ~~effects on receiving waters due to operation and maintenance of stormwater~~
6 ~~management facilities.~~

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

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

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

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

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

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

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

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

4 ~~(i) a new stormwater discharge or the expansion of an existing~~
5 ~~discharge shall meet the treatment standards for new development and~~
6 ~~expansion in the 2002 Stormwater Management Manual and any additional~~
7 ~~requirements deemed necessary by the Secretary to implement the TMDL or~~
8 ~~water quality remediation plan;~~

9 ~~(ii) for a discharge of regulated stormwater runoff from~~
10 ~~redeveloped impervious surfaces:~~

11 ~~(I) the existing impervious surface shall be reduced by 20~~
12 ~~percent, or a stormwater treatment practice shall be designed to capture and~~
13 ~~treat 20 percent of the water quality volume treatment standard of the 2002~~
14 ~~Stormwater Management Manual from the existing impervious surface; and~~

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

17 ~~(iii) an existing stormwater discharge shall meet the treatment~~
18 ~~standards deemed necessary by the Secretary to implement a TMDL or a water~~
19 ~~quality remediation plan;~~

20 ~~(iv) if a permit is required for an expansion of an existing~~
21 ~~impervious surface or for the redevelopment of an existing impervious surface,~~

1 ~~discharges from the expansion or from the redeveloped portion of the existing~~
2 ~~impervious surface shall meet the relevant treatment standard of the 2002~~
3 ~~Stormwater Management Manual, and the existing impervious surface shall~~
4 ~~meet the treatment standards deemed necessary by the Secretary to implement~~
5 ~~a TMDL or the water quality remediation plan;~~

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

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

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

13 ~~(2) An authorization to discharge regulated stormwater runoff pursuant~~
14 ~~to a permit issued under this subsection shall be valid for a time period not to~~
15 ~~exceed five years. A person seeking to discharge regulated stormwater runoff~~
16 ~~after the expiration of that period shall obtain an individual permit or coverage~~
17 ~~under a general permit, whichever is applicable, in accordance with subsection~~
18 ~~1263(e) of this title.~~

19 ~~(3) By January 15, 2010, the Secretary shall issue a watershed~~
20 ~~improvement permit, issue a general or individual permit implementing a~~
21 ~~TMDL approved by the EPA, or issue a general or individual permit~~

1 ~~implementing a water quality remediation plan for each of the~~
2 ~~stormwater impaired waters on the Vermont Year 2004 Section 303(d) List of~~
3 ~~Waters required by 33 U.S.C. 1313(d). In developing a TMDL or a water~~
4 ~~quality remediation plan for a stormwater impaired water, the Secretary shall~~
5 ~~consult “A Scientifically Based Assessment and Adaptive Management~~
6 ~~Approach to Stormwater Management” and “Areas of Agreement about the~~
7 ~~Scientific Underpinnings of the Water Resources Board’s Original Seven~~
8 ~~Questions” set out in appendices A and B, respectively, of the final report of~~
9 ~~the Water Resources Board’s “Investigation Into Developing Cleanup Plans~~
10 ~~For Stormwater Impaired Waters, Docket No. Inv-03-01,” issued March 9,~~
11 ~~2004.~~

12 ~~(4) Discharge permits issued under this subsection shall require BMP-~~
13 ~~based stormwater treatment practices. Permit compliance shall be judged on~~
14 ~~the basis of performance of the terms and conditions of the discharge permit,~~
15 ~~including construction and maintenance in accordance with BMP~~
16 ~~specifications. Any permit issued for a new stormwater discharge or for the~~
17 ~~expanded portion of an existing discharge pursuant to this subsection shall~~
18 ~~require compliance with BMPs for stormwater collection and treatment~~
19 ~~established by the 2002 Stormwater Management Manual, and any additional~~
20 ~~requirements for stormwater treatment and control systems as the Secretary~~

1 ~~determines to be necessary to ensure that the permitted discharge does not~~
2 ~~cause or contribute to a violation of the Vermont Water Quality Standards.~~

3 ~~(5) In addition to any permit condition otherwise authorized under~~
4 ~~subsection (e) of this section, in any permit issued pursuant to this subsection,~~
5 ~~the Secretary may require an offset or stormwater impact fee as necessary to~~
6 ~~ensure the discharge does not cause or contribute to a violation of the Vermont~~
7 ~~Water Quality Standards. Offsets and stormwater impact fees, where utilized,~~
8 ~~shall incorporate an appropriate margin of safety to account for the variability~~
9 ~~in quantifying the load of pollutants of concern. To facilitate utilization of~~
10 ~~offsets and stormwater impact fees, the Secretary shall identify by January 1,~~
11 ~~2005 a list of potential offsets in each of the waters listed as a~~
12 ~~stormwater impaired water under this subsection.~~

13 ~~(g)(1) The Secretary may issue a permit consistent with the requirements of~~
14 ~~subsection (f) of this section, even where a TMDL or wasteload allocation has~~
15 ~~not been prepared for the receiving water. In any appeal under this chapter an~~
16 ~~individual permit meeting the requirements of subsection (f) of this section~~
17 ~~shall have a rebuttable presumption in favor of the permittee that the discharge~~
18 ~~does not cause or contribute to a violation of the Vermont Water Quality~~
19 ~~Standards for the receiving waters with respect to the discharge of regulated~~
20 ~~stormwater runoff. This rebuttable presumption shall only apply to permitted~~

1 ~~discharges into receiving waters that are principally impaired by sources other~~
2 ~~than regulated stormwater runoff.~~

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

6 ~~(h) The rebuttable presumption specified in subdivision (g)(1) of this~~
7 ~~section shall also apply to permitted discharges into receiving waters that meet~~
8 ~~the water quality standards of the State, provided the discharge meets the~~
9 ~~requirements of subsection (e) of this section.~~

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

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

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

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

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

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

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

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

1 ~~(A) criteria for coverage under an individual or general emergency~~
2 ~~permit;~~

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

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

7 ~~(D) requirements for coordination with State and municipal~~
8 ~~authorities;~~

9 ~~(E) requirements that the Secretary document permitted activity,~~
10 ~~including, at a minimum, requirements for documenting permit terms,~~
11 ~~documenting permit duration, and documenting the nature of an activity when~~
12 ~~the rules authorize notification of the Secretary after initiation or completion of~~
13 ~~the activity.~~

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

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

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

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

1 (a) Findings and intent.

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

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

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

9 (B) Direct the Agency of Natural Resources to develop a process that
10 assures broad participation; focuses upon the prevention of pollution; relies on
11 structural treatment only when necessary; establishes and maintains
12 accountability; tailors strategies to the region and the locale; builds
13 broad-based programs; provides for the evaluation and appropriate evolution of
14 programs; is consistent with the federal Clean Water Act and the State water
15 quality standards; and accords appropriate recognition to the importance of
16 community benefits that accompany an effective stormwater runoff
17 management program. In furtherance of these purposes, the Secretary shall
18 implement a stormwater permitting program. The stormwater permitting
19 program developed by the Secretary shall recognize that the runoff of
20 stormwater is different from the discharge of sanitary and industrial wastes
21 because of the influence of natural events of stormwater runoff, the variations

1 in characteristics of those runoffs, and the increased stream flows and natural
2 degradation of the receiving water quality at the time of discharge.

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

4 (1) “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 (2) “Development” means the construction of impervious surface on a
8 tract or tracts of land where no impervious surface previously existed.

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

12 (4) “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.

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

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

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

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

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

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

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

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

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

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

20 (15) “Total maximum daily load” (TMDL) means the calculations and
21 plan for meeting water quality standards approved by the U.S. Environmental

1 Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and
2 federal regulations adopted under that law.

3 (16) “Water quality remediation plan” means a plan, other than a
4 TMDL, designed to bring an impaired water body into compliance with
5 applicable water quality standards in accordance with 40 C.F.R.
6 § 130.7(b)(1)(ii) and (iii).

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

12 (c) Prohibitions.

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

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

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

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

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

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

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

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

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

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

18 (5) stormwater runoff permitted under section 1263 of this title.

19 (e) State designation. The Secretary shall require a permit under this
20 section for a discharge or stormwater runoff from impervious surfaces upon a
21 designation by the Secretary that the treatment of the discharge or stormwater

1 runoff is necessary to reduce the adverse impacts to water quality of the
2 discharge or stormwater runoff taking into consideration any of the following
3 factors: the size of the impervious surface, drainage patterns, hydraulic
4 connectivity, existing stormwater treatment, stormwater controls necessary to
5 implement the wasteload allocation of a TMDL, or other factors. The
6 Secretary may make this designation through the basin planning process or on
7 a case-by-case basis.

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

10 (1) Establish as the primary goals of the rules assuring compliance with
11 the Vermont Water Quality Standards and maintenance after development, as
12 nearly as possible, of the predevelopment runoff characteristics.

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

15 (3) Assure consistency with applicable requirements of the federal Clean
16 Water Act.

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

20 (5) Specify minimum requirements for inspection and maintenance of
21 stormwater management practices.

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

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

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

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

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

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

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

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

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

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

6 (i) A new discharge or the expanded portion of an existing
7 discharge shall satisfy the requirements of the Stormwater Management
8 Manual and shall not increase the pollutant load in the receiving water for
9 stormwater; or

10 (ii) For redevelopment or expansion or existing impervious
11 surface, the discharge shall satisfy on-site the water quality, recharge, and
12 channel protection criteria set forth in the Stormwater Management Manual
13 that are determined to be technically feasible by an engineering feasibility
14 analysis conducted by the Agency and the discharge shall not increase the
15 pollutant load in the receiving water for stormwater.

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

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

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

11 (j) Presumption. In any appeal under this chapter, an individual permit
12 issued under this section shall have a rebuttable presumption in favor of the
13 permittee that the discharge does not cause or contribute to a violation of the
14 Vermont Water Quality Standards for the receiving waters with respect to the
15 discharge of regulated stormwater runoff. This rebuttable presumption shall
16 only apply to permitted discharges into receiving waters that are principally
17 impaired by sources other than regulated stormwater runoff.

18 * * * Municipal Highway Stormwater Permit * * *

19 Sec. 20. 10 V.S.A. § 1285 is added to read:

20 § 1285. STORMWATER; MUNICIPAL ROADS

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

1 (1) “Municipality” means a city, town, or village.

2 (2) “Municipal road” shall have the same meaning as “town highway,”
3 as that term is defined in 19 V.S.A. § 1. “Municipal road” shall not mean a
4 driveway or parking lot for a municipal building.

5 (3) “Redevelopment” or “redevelop” means the construction or
6 reconstruction of an impervious surface where an impervious surface already
7 exists when such new construction involves substantial site grading, substantial
8 subsurface excavation, or substantial modification of an existing stormwater
9 conveyance, such that the total of impervious surface to be constructed or
10 reconstructed is greater than the minimum regulatory threshold.

11 Redevelopment does not mean the construction or reconstruction of
12 impervious surface where impervious surface already exists when the
13 construction or reconstruction involves less than 5,000 square feet.

14 Redevelopment does not mean crack sealing, patching, coldplaning,
15 resurfacing, reclaiming, or grading treatments used to maintain pavement,
16 bridges, and unpaved roads.

17 (b) Prohibition. A municipality shall not construct or redevelop a
18 municipal road without first obtaining a permit under this section.

19 (c) State designation. The Secretary shall require a permit under this
20 section for a discharge or stormwater runoff from municipal roads upon a
21 designation by the Secretary that the treatment of the discharge or stormwater

1 runoff is necessary to reduce the adverse impacts to water quality of the
2 discharge or stormwater runoff taking into consideration any of the following
3 factors: the size of the impervious surface, drainage patterns, hydraulic
4 connectivity, existing stormwater treatment, that stormwater controls are
5 necessary to implement the wasteload allocation of a TMDL, or other factors.
6 The Secretary may make this designation through the basin planning process or
7 on a case-by-case basis.

8 (d) Rulemaking. The Secretary, in consultation with the Secretary of
9 Transportation, shall adopt rules to manage regulated stormwater runoff from
10 municipal highways. At a minimum the rules shall:

11 (1) establish as the primary goals of the rules assuring compliance with
12 the Vermont Water Quality Standards and maintenance after development, as
13 nearly as possible, of the predevelopment runoff characteristics;

14 (2) use of the basin planning process to establish watershed-specific
15 priorities for the management of stormwater runoff;

16 (3) criteria for the prioritization of municipal road stormwater
17 improvements that takes into consideration the water quality impacts of the
18 stormwater discharge, the current state of the municipal road and its priority in
19 any existing transportation capital plan developed by the municipality, and the
20 benefits of the stormwater improvement to the life of the municipal road being
21 improved; and

1 (4) include technical standards and best management practices that
2 address stormwater discharges from the construction and redevelopment of
3 municipal roads.

4 (e) General permits. The Secretary may issue general permits for classes of
5 regulated stormwater from municipal roads that shall be adopted and
6 administered in accordance with the provisions of subsection 1263(b) of this
7 title.

8 (f) Permit requirements. An individual or general stormwater permit issued
9 under this section shall:

10 (1) Require that one year after the adoption of a general permit each
11 municipality shall inventory its existing municipal roads and gather
12 information necessary to prioritize improvements to stormwater infrastructure.

13 (2) Require that two years after the adoption of a general permit under
14 this section that each municipality shall prioritize municipal road stormwater
15 improvements in accordance with criteria adopted by the Secretary and provide
16 the Secretary with a schedule for when improvements shall be made.

17 (3) Require the implementation of the schedule, as approved by the
18 Secretary, of municipal road stormwater improvements. Improvements shall
19 be made in accordance with technical standards and BMPs adopted by the
20 Secretary. The Secretary may require site-specific standards under an
21 individual permit.

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* * * Water Quality Data Coordination * * *

Sec. 21. 10 V.S.A. § 1284 is added to read:

§ 1284. WATER QUALITY DATA COORDINATION

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

- (1) light detection and ranging information data (LIDAR) identifying water quality issues;
- (2) stream gauge data;
- (3) stream mapping, including fluvial erosion hazard maps;
- (4) water quality monitoring or sampling data;
- (5) cumulative stressors on a watershed, such as the frequency an activity is conducted within a watershed or the number of stormwater or other permits issued in a watershed; and
- (6) any other data available to the Secretary.

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

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

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

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

6 *** Water Quality Funding; Clean Water Fund; Impervious Surface
7 Assessment; Fertilizer Fee ***

8 Sec. 22. 10 V.S.A. chapter 47, subchapter 7 is added to read:

9 Subchapter 7. Vermont Clean Water Fund

10 § 1387. CLEAN WATER FUND

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

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

15 (2) the Fund shall consist of:

16 (A) revenues dedicated for deposit into the Fund by the General
17 Assembly, including the impervious cover assessment established under
18 32 V.S.A. § 245; and

19 (B) other gifts, donations, and impact fees received from any source,
20 public or private, dedicated for deposit into the Fund and approved by the
21 Board.

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

3 (1) to provide funding to programs and projects that address sources of
4 water pollution in waters listed as impaired on the list of waters established by
5 33 U.S.C. § 1313(d);

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

8 (3) to provide funding to programs or projects that address or repair
9 riparian conditions that increase the risk of flooding or pose a threat to life or
10 property.

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

13 § 1388. CLEAN WATER FUND BOARD

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

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

18 (1) the Secretary of Administration or designee;

19 (2) the Secretary of Natural Resources or designee;

20 (3) the Secretary of Agriculture, Food and Markets or designee;

1 (4) the Secretary of Commerce and Community Development or
2 designee;

3 (5) the Secretary of Transportation or designee;

4 (6) two members of the public or the House of Representatives
5 appointed by the Speaker of the House;

6 (7) two members of the public or the Senate appointed by the
7 Committee on Committees; and

8 (8) two members of the public appointed by the Governor.

9 (c) Officers; committees; rules. The Clean Water Fund Board shall
10 annually elect a chair from its members. The Clean Water Fund Board may
11 elect additional officers from its members, establish committees or
12 subcommittees, and adopt procedural rules as necessary and appropriate to
13 perform its work.

14 (d) Member terms. Members of the Clean Water Fund Board appointed by
15 the Governor shall serve initial terms of three years, members appointed by the
16 Speaker of the House shall serve initial terms of two years, and members
17 appointed by the Committee on Committees shall serve initial terms of one
18 year. Thereafter, each of the above appointed members shall serve a term of
19 three years. A vacancy shall be filled by the appointing authority for the
20 remainder of the unexpired term. An appointed member shall not serve more
21 than three consecutive three-year terms.

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

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

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

6 (A) to receive a proposals from the Secretaries of Agriculture, Food,
7 and Markets, of Commerce and Community Development, of Natural
8 Resources, and of Transportation on the appropriate expenditures of the Fund;

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

12 (C) to pursue and accept grants or other funding from any public or
13 private source and to administer such grants or funding consistent with their
14 terms.

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

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

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

20 (C) the annual Clean Water Investment Report required under section
21 1389 of this title.

1 (3) The Clean Water Fund Board shall solicit public comment and
2 consult with existing organizations and advisory committees devoted to
3 improving water quality in Vermont, including the Citizens Advisory
4 Committee of the Lake Champlain Basin Program.

5 (g) The Secretary of Administration shall give substantial deference to the
6 recommendations of allocations from the Clean Water Fund proposed by the
7 Clean Water Fund Board when developing the State budget.

8 § 1389. CLEAN WATER INVESTMENT REPORT

9 Beginning on January 15, 2016, and annually thereafter, the Clean Water
10 Fund Board shall publish a Clean Water Investment Report. The report shall
11 summarize all investments made by the Clean Water Fund Board and other
12 State agencies for clean water restoration over the past calendar year. The
13 report shall include expenditures from the Clean Water Fund, the General
14 Fund, the Transportation Fund, and any other State expenditures for clean
15 water restoration, regardless of funding source. The report shall document
16 progress or shortcomings in meeting established indicators for clean water
17 restoration. The report may also provide an overview of additional funding
18 necessary to meet objectives established for clean water restoration and
19 recommendations for additional revenue to meet those restoration objectives.

20 Sec. **23**. 32 V.S.A. chapter 245 is added to read:

21 CHAPTER 245. IMPERVIOUS SURFACE ASSESSMENT

1 § 10501. DEFINITIONS

2 As used in this chapter:

3 (1) “Commercial property” means a real property that has a highest and
4 best use of providing goods and services for sale, including retail stores, malls,
5 motels, hotels, filling stations, restaurants, office buildings, bowling alleys, and
6 golf courses. Commercial property does not mean industrial property.

7 (2) “Commissioner” means the Commissioner of Taxes.

8 (3) “Farming” means:

9 (A) the cultivation or other use of land for growing food, fiber,
10 Christmas trees, maple sap, or horticultural and orchard crops;

11 (B) the raising, feeding, or management of livestock, poultry, fish, or
12 bees;

13 (C) the operation of greenhouses;

14 (D) the production of maple syrup;

15 (E) the on-site storage, preparation, production, and sale of fuel or
16 power from agricultural products principally produced on the farm; or

17 (F) the raising, feeding, or management of four or more equines
18 owned or boarded by the farmer, including training, showing, and providing
19 instruction and lessons in riding, training, and the management of equines.

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

4 (5) “Industrial property” means a property that has a highest and best
5 use of producing a product from raw materials, rather than a product or service
6 simply being sold. Industrial property includes all property used by a utility
7 for the provision of that regulated service, including a gas pipeline, water
8 treatment plant, or electric generation facility, but not administrative offices of
9 a utility.

10 (6) “Lake Champlain basin” means all property wholly or partially
11 within the municipal boundaries of the following municipalities: Alburgh, Isle
12 La Motte, North Hero, Grand Isle, South Hero, Highgate, Franklin, Berkshire,
13 Richford, Swanton, Sheldon, Enosburgh, Montgomery, St. Albans City,
14 St. Albans Town, Fairfield, Bakersfield, Georgia, Fairfax, Fletcher, Milton,
15 Westford, Underhill, Colchester, Essex, Jericho, Bolton, Burlington, South
16 Burlington, Williston, Winooski, Richmond, Shelburne, St. George, Charlotte,
17 Hinesburg, Huntington, Buel’s Gore, Ferrisburgh, Monkton, Starksboro,
18 Vergennes, Panton, Waltham, New Haven, Bristol, Lincoln, Granville,
19 Addison, Bridport, Cornwall, Middlebury, Ripton, Shoreham, Orwell,
20 Whiting, Salisbury, Leicester, Goshen, Hancock, Hubbardton, Benson,
21 Sudbury, Brandon, Chittenden, Weybridge, West Haven, Fair Haven,

1 Castleton, Pittsford, West Rutland, Proctor, Rutland Town, Rutland City,
2 Mendon, Killington, Poultney, Middletown Springs, Ira, Clarendon,
3 Shrewsbury, Wells, Tinmouth, Wallingford, Mount Holly, Pawlet, Danby,
4 Mount Tabor, Rupert, Dorset, Peru, Waterville, Belvidere, Eden, Cambridge,
5 Johnson, Hyde Park, Wolcott, Stowe, Morristown, Elmore, Waterbury,
6 Duxbury, Fayston, Warren, Waitsfield, Roxbury, Middlesex, Moretown,
7 Northfield, Montpelier, Berlin, Barre Town, Barre City, Worcester, East
8 Montpelier, Calais, Woodbury, Plainfield, Marshfield, Cabot, Jay, Troy,
9 Newport, Westfield, Lowell, Craftsbury, Greensboro, Hardwick, Walden,
10 Wheelock, Stannard, Peacham, Williamstown, Orange, and Washington.

11 (7) “Parcel” means parcel as defined in section 4152 of this title.

12 § 10502. LIABILITY FOR PAYMENT

13 (a) There shall be an impervious cover assessment of \$200.00 per calendar
14 year imposed on each commercial and industrial parcel located within the Lake
15 Champlain basin that contains any amount of impervious surface except as
16 provided in subsection (b) of this section.

17 (b) The assessment established under subsection (a) of this section shall not
18 apply to property used for farming or forestry.

19 (c) The assessment established under subsection (a) of this section shall be
20 imposed on owners of real property on April 1 of each year and shall be paid
21 no later than April 15 of the following year.

1 (d) To the extent that they are not in conflict with the provisions of this
2 subchapter, the administrative provisions of chapters 103 and 151 of this title,
3 including those regarding payment, deficiency assessments, appeal, interest
4 and penalty, enforcement, and collection shall apply to the assessment imposed
5 by this subchapter.

6 Sec. 24. 6 V.S.A. § 366 is amended to read:

7 § 366. TONNAGE FEES

8 (a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers
9 distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~
10 fee at a rate of \$0.25 cents per ton.

11 (b) Persons distributing fertilizer shall report annually by January 15 for the
12 previous year ending December 31 to the ~~secretary~~ Secretary revealing the
13 amounts of each grade of fertilizer and the form in which the fertilizer was
14 distributed within this ~~state~~ State. Each report shall be accompanied with
15 payment and written permission allowing the ~~secretary~~ Secretary to examine
16 the person's books for the purpose of verifying tonnage reports.

17 (c) No information concerning tonnage sales furnished to the ~~secretary~~
18 Secretary under this section shall be disclosed in such a way as to divulge the
19 details of the business operation to any person unless it is necessary for the
20 enforcement of the provisions of this chapter.

1 (d) A ~~\$50.00~~ \$150.00 minimum tonnage fee shall be assessed on all
2 distributors who distribute fertilizers in this state State.

3 (e) Agricultural limes, including agricultural lime mixed with wood ash,
4 are exempt from the tonnage fees required in this section.

5 (f) Lime and wood ash mixtures may be registered as agricultural liming
6 materials and guaranteed for potassium or potash provided that the wood ash
7 totals less than 50 percent of the mixture.

8 (g) All fees collected under subsection (a) of this section shall be deposited
9 in the revolving fund created by section 364(e) of this title and used in
10 accordance with its provisions.

11 (h) There shall be paid annually to the Secretary for all fertilizers
12 distributed to a nonregistrant consumer in this State an annual fee at a rate of
13 \$30.00 per ton for the purpose of supporting agricultural water quality
14 programs in Vermont.

15 (1) Persons distributing fertilizer shall report annually on or before
16 January 15 for the previous year ending December 31 to the Secretary
17 revealing the amounts of each grade of fertilizer and the form in which the
18 fertilizer was distributed within this State. Each report shall be accompanied
19 with payment and written permission allowing the Secretary to examine the
20 person's books for the purpose of verifying tonnage reports.

1 suitable for abatement of pollution, and the project or the prescribed project
2 phases are necessary to meet the intent of the water quality classifications
3 established by the Secretary or by statute under chapter 47 of this title, the
4 Department may award to municipalities a State assistance grant of up to 25
5 percent of the eligible project cost, provided that in no case shall the total of
6 the State and federal grants exceed 90 percent of the eligible project costs:

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

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

14 (b) In carrying out the purposes of this subchapter, the Department shall
15 define the purpose and scope of an eligible project, including a determination
16 of the area to be served, type of treatment, effluent limitations, eligible
17 construction costs, cost accounting procedures and methods and other such
18 project construction, operation and fiscal elements necessary to meet federal
19 aid requirements. The Department shall, as a part of the administration of this
20 grant program, encourage municipalities to undertake capital development

1 planning and to establish water and sewer charges along public utility
2 concepts.

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

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

14 (e) If the Department finds that a proposed municipal water pollution
15 control project is necessary to reduce effluent phosphorus concentration or
16 mass loading to the level required in section 1266a of this title, the Department
17 shall award to the municipality, subject to the availability of funds, a state
18 assistance grant. Such grants shall be for ~~400~~ 25 percent of the eligible project
19 cost. This funding shall not be available for phosphorus removal projects
20 where the effluent concentration must be reduced in order to maintain a
21 previously permitted mass loading of phosphorus.

1 * * * Accepted Management Practices for Forestry * * *

2 Sec. 26. 10 V.S.A. § 2622 is amended to read:

3 § 2622. RULES; ACCEPTED MANAGEMENT PRACTICES FOR
4 HARVESTING TIMBER; FORESTS

5 ~~The commissioner~~ Commissioner shall adopt rules to establish ~~methods~~
6 accepted management practices by which the harvest and utilization of timber
7 in private and public ~~forest land~~ forestland will be consistent with continuous
8 forest growth, including reforestation, will prevent wasteful and dangerous
9 forestry practices, will regulate heavy cutting, will encourage good forestry
10 management, will enable and assist landowners to practice good forestry
11 management, and will conserve the natural resources consistent with the
12 purposes and policies of this chapter, giving due consideration to the need to
13 assure continuous supplies of forest products and to the rights of the owner or
14 operator of the land. ~~Such~~ The rules shall be advisory, and not mandatory,
15 ~~except that~~ adopted under this section and the rules adopted under section 2625
16 of this title shall be mandatory as shall other rules specifically authorized to be
17 mandatory.

18 Sec. 27. 10 V.S.A. § 1259(f) is amended to read:

19 (f) The provisions of subsections (c), (d), and (e) of this section shall not
20 regulate accepted agricultural ~~or silvicultural~~ practices, as such are defined by
21 ~~the secretary of agriculture, food and markets and the commissioner of forests,~~

1 ~~parks and recreation, respectively,~~ Secretary of Agriculture, Food and Markets,
2 or the accepted management practices for the harvesting of timber, as such are
3 defined by the Commissioner of Forests, Parks and Recreation after an
4 opportunity for a public hearing; nor shall these provisions regulate discharges
5 from concentrated animal feeding operations that require a permit under
6 section 1263 of this title; nor shall those provisions prohibit stormwater runoff
7 or the discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

8 Sec. 28. 10 V.S.A. § 8003(a) is amended to read:

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

13 * * *

14 (17) 10 V.S.A. § 2625, relating to heavy cutting of timber;

15 * * *

16 (25) 10 V.S.A. chapter 83, subchapter 8, relating to the importation of
17 firewood.

18 (26) 10 V.S.A. chapter 168, relating to the collection and disposal of
19 primary batteries.

20 (27) 10 V.S.A. § 2622, relating to the accepted management practices
21 for harvesting timber.

1 Sec. 29. 10 V.S.A. § 8503(a) is amended to read:

2 (a) This chapter shall govern all appeals of an act or decision of the
3 Secretary, excluding enforcement actions under chapters 201 and 211 of this
4 title and rulemaking, under the following authorities and under the rules
5 adopted under those authorities:

6 (1) The following provisions of this title:

7 * * *

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

9 * * *

10 (V) section 2622 (accepted management practices for harvesting
11 timber).

12 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

13 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

14 Sec. 30. 24 V.S.A. § 4413(d) is amended to read:

15 (d) A bylaw under this chapter shall not regulate accepted agricultural ~~and~~
16 ~~silvicultural~~ practices, including the construction of farm structures, as those
17 practices are defined by the ~~secretary of agriculture, food and markets~~
18 Secretary of Agriculture, Food and Markets or ~~the commissioner of forests,~~
19 ~~parks and recreation~~ accepted management practices for the harvesting of
20 timber, as those practices are defined by the Commissioner of Forests, Parks

1 and Recreation, respectively, under 10 V.S.A. §§ 1021(f) and 1259(f) § 2622
2 and 6 V.S.A. § 4810.

3 * * *

4 * * * Eligibility for Ecosystem Restoration Program Assistance * * *

5 Sec. 31. ECOSYSTEM RESTORATION PROGRAM; ELIGIBILITY FOR
6 FINANCIAL ASSISTANCE

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

15 * * * Shoreland Contractor Certification * * *

16 Sec. 32. VOLUNTARY SHORELAND EROSION CONTROL
17 CERTIFICATION PROGRAM

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

19 (1) "Impervious surface" shall have the same meaning as in
20 10 V.S.A. § 1264.

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

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

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

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

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

- 1 (1) a general summary of the program’s success, including an overview
2 of shoreland projects constructed by certified persons;
3 (2) the number of persons certified under the certification program;
4 (3) a recommendation of whether the State should continue the
5 voluntary certification program, including whether to make the program
6 mandatory; and
7 (4) any other recommendations for improving the program.

8 Sec. 33. EFFECTIVE DATES

- 9 This act shall take effect on July 1, 2015, except that:
10 (1) Sec. 5 (small farm certification) shall take effect on July 1, 2017; and
11 (2) Sec. 23 (impervious surface assessment) shall take effect on passage
12 and shall apply to the April 1, 2015 grand list.

13
14
15
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19
20 (Committee vote: _____)

1

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Representative _____

3

FOR THE COMMITTEE