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1 H.595

2 Representative Deen of Westminster, on behalf of the Committee on Fish,  
3 Wildlife and Water Resources, moves that the House concur in the Senate  
4 proposal of amendment with the following further proposal of amendment of  
5 striking all after the enacting clause and inserting in lieu thereof the following:

6 \* \* \*Surface Water Sources; Potable Water Supply\* \* \*

7 Sec. 1. 10 V.S.A. § 1978(a) is amended to read:

8 (a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25,  
9 necessary for the administration of this chapter. These rules shall include the  
10 following:

11 \* \* \*

12 (15) Provisions authorizing the use by a residential dwelling of surface  
13 water as a source of a potable water supply permitted under this chapter.

14 Sec. 2. 10 V.S.A. § 1981 is added to read:

15 § 1981. SURFACE WATER SOURCE; POTABLE WATER SUPPLY

16 The Secretary shall approve the use of a surface water as the source of a  
17 potable water supply under this chapter if the following conditions are  
18 satisfied:

19 (1) the building or structure using the surface water as a source is a  
20 single-family residence occupied by the owner of record;

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1           (2) only one single-family residence shall be served by a potable water  
2           supply using a surface water as a source;

3           (3) a single-family residence with a potable water supply using a surface  
4           water as a source shall not be used as the site of a home occupation that  
5           employs persons other than family members and is visited by the public in a  
6           manner or duration that would presume the need for use of a potable water  
7           supply;

8           (4) a professional engineer shall design the potable water supply using a  
9           surface water as a source, including a treatment system for the surface water;

10           (5) only surface waters that meet criteria adopted by the Secretary by  
11           rule are eligible as the source of a potable water supply permitted under this  
12           chapter; and

13           (6) the applicant or permit holder shall comply with other criteria and  
14           requirements adopted by the Secretary by rule for potable water supplies using  
15           a surface water as a source.

16           Sec. 3. SURFACE WATER SOURCE; RULEMAKING

17           The Secretary shall adopt rules to implement 10 V.S.A. § 1981 on or before  
18           July 1, 2017.

19                                   \*\*\*Environmental Contingency Fund\*\*\*

20           Sec. 4. 10 V.S.A. § 1283(b) is amended to read:

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1 (b) Disbursements under this subsection may be made for emergency  
2 purposes or to respond to other than emergency situations; provided, however,  
3 that disbursements in response to an individual situation which is not an  
4 emergency situation shall not exceed \$100,000.00 for costs attributable to each  
5 of the subdivisions of this subsection, unless the Secretary has received the  
6 approval of the General Assembly, or the Joint Fiscal Committee, in case the  
7 General Assembly is not in session. Furthermore, the balance in the Fund shall  
8 not be drawn below the amount of \$100,000.00, except in emergency  
9 situations. If the balance of the Fund becomes insufficient to allow a proper  
10 response to one or more emergencies that have occurred, the Secretary shall  
11 appear before the Emergency Board, as soon as possible, and shall request that  
12 necessary funds be provided. Within these limitations, disbursements from the  
13 Fund may be made:

14 \* \* \*

15 (7) to pay costs of management oversight provided by the State for  
16 investigation and cleanup efforts conducted by voluntary responsible parties  
17 ~~where those responsible parties have contributed monies to the Fund pursuant~~  
18 ~~to a written agreement under subsection (f) of this section;~~

19 \* \* \*

20 \* \* \*ANR Information Requests; Hazardous Material Releases\* \* \*

21 Sec. 5. 10 V.S.A. § 6615c is added to read:

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1     § 6615c. INFORMATION REQUESTS

2           (a)(1) When the Secretary has reasonable grounds to believe that the  
3     Secretary has identified a person who may be subject to liability for a release  
4     or threat of release under section 6615 of this title, the Secretary may require  
5     the person to furnish information related to:

6           (A) The type, nature, and quantity of any commercial chemical  
7     product or hazardous material that has been or is being used, generated,  
8     treated, stored, or disposed of at a facility or transported to a facility.

9           (B) The nature or extent of a release or threatened release of a  
10    hazardous material from a facility.

11          (C) If the person fails to pay for or perform a cleanup of a release or  
12    threatened release of a hazardous material, financial information related to the  
13    ability of a person to pay for or to perform the cleanup or information  
14    surrounding the corporate structure, if any, of such person who may be subject  
15    to liability for a release or threat of release under section 6615 of this title.

16          (2) A person served with an information request shall respond within  
17    30 days of receipt of the request or by the date specified by the Secretary in the  
18    request, provided that the Secretary may require a person to respond within 10  
19    days of receipt of a request when there is an imminent threat to the  
20    environment or other emergency that requires expedited response.

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1           (3) When the Secretary submits a request for information under this  
2 section, the Secretary shall provide the person who received the request  
3 information regarding the person's right to object or not comply with the  
4 request for information. The information shall include the potential actions  
5 that the Secretary may pursue if the person objects to or does not comply with  
6 the request for information.

7           (b)(1) A person who has received a request under subsection (a) of this  
8 section shall, at the discretion of the Secretary, either:

9                   (A) grant the Secretary access, at reasonable times, to any facility,  
10 establishment, place, property, or location to inspect and copy all documents or  
11 records responsive to the request; or

12                   (B) copy and furnish to the Secretary all information responsive to  
13 the request at the option and expense of the person or provide a written  
14 explanation that the information has already been provided to the Secretary and  
15 a reference to the permit, enforcement action, or other matter under which the  
16 Secretary obtained the requested information.

17           (2) A person responding to a request under subsection (a) of this section  
18 may assert any privilege under statute, rule, or common law that is recognized  
19 in the State of Vermont to limit access to such information, including the  
20 attorney-client privilege. A person responding to a request for information  
21 under this section shall not assert privileges related to business confidentiality,

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1 including trade secrets, in order to withhold requested information. Any  
2 information that is privileged shall be provided to the Secretary with the  
3 privileged material redacted. The Secretary may require that a person asserting  
4 a privilege under this section provide an index of all privileged information.

5 (c) The Secretary may require any person who has or may have knowledge  
6 of any information listed in **subdivision** (a)(1) of this section to appear at the  
7 offices of the Secretary and may take testimony and require the production of  
8 records that relate to a release or threatened release of a hazardous material.

9 (d) Any request for information under this section shall be served  
10 personally or by certified mail.

11 (e) A response to a request under this section shall be personally certified  
12 by the person responding to the request that, **under penalty of perjury and to**  
13 **the best of the person's knowledge:**

14 (1) the response is accurate and truthful; and

15 (2) the person has not omitted responsive information or will provide the  
16 responsive information according to a production schedule approved by the  
17 Secretary.

18 (f) Information **identified as qualifying for the** trade secret exemption under  
19 1 V.S.A. § 317(c)(9) and other financial information submitted under this  
20 section shall be confidential and shall not be subject to inspection and copying  
21 under the Public Records Act. A person subject to an information request

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1 under this section shall be responsible for proving that submitted information  
2 qualifies for the trade secret exemption under 1 V.S.A. § 317(c)(9). The  
3 following information is not trade secret information or financial information  
4 for the purposes of this subsection:

5 (1) the trade name, common name, or generic class or category of the  
6 hazardous material;

7 (2) the physical properties of the hazardous material, including its  
8 boiling point, melting point, flash point, specific gravity, vapor density,  
9 solubility in water, and vapor pressure at 20 degrees Celsius;

10 (3) the hazards to health and the environment posed by the hazardous  
11 material, including physical hazards and potential acute and chronic health  
12 hazards;

13 (4) the potential routes of human exposure to the hazardous material at  
14 the facility;

15 (5) the location of disposal of any waste stream at the facility;

16 (6) any monitoring data or analysis of monitoring data pertaining to  
17 disposal activities;

18 (7) any hydrogeologic or geologic data; or

19 (8) any groundwater monitoring data.

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1        (g) As used in this section, “information” means any written or recorded  
2        information, including all documents, records, photographs, recordings, e-mail,  
3        correspondence, or other machine readable material.

4        Sec. 6. 10 V.S.A. § 8005(b) is amended to read:

5        (b) Access orders and information requests.

6            (1) A Superior Court judge shall issue an access order when access has  
7        been refused and the investigator, by affidavit, describes the property to be  
8        examined and identifies:

9            (A) a provision of a permit that authorizes the inspection; or

10          (B) the property as being scheduled for inspection in accordance with  
11        a neutral inspection program adopted by the Secretary or the Natural Resources  
12        Board; or

13          (C) facts providing reasonable grounds to believe that a violation  
14        exists and that an examination of the specifically described property will be of  
15        material aid in determining the existence of the violation.

16          (2) A Superior Court shall issue an order requiring compliance with an  
17        information request submitted pursuant to section 6615c of this title when:

18            (A) the person served with the request fails to respond to the request  
19        in the time frame identified by the Secretary;

20            (B) the Secretary submits, by affidavit, facts providing reasonable  
21        grounds that a release or threatened release has taken place; and



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1           (C) the information will be of material aid in responding to the  
2           release or threatened release.

3           (3) Issuance of an access order shall not negate the Secretary’s authority  
4           to initiate criminal proceedings in the same matter by referring the matter to  
5           the Office of the Attorney General or a State’s Attorney.

6                           \*\*\*Natural Resource Damages\*\*\*

7           Sec. 7. 10 V.S.A. § 6615d is added to read:

8           § 6615d. NATURAL RESOURCE DAMAGES; LIABILITY;

9                           RULEMAKING

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

11           (1) “Baseline condition” means the condition or conditions that would  
12           have existed at the area of assessed damages had the release of hazardous  
13           material not occurred.

14           (2) “Damages” means the amount of money sought by the Secretary for  
15           the injury, destruction, or loss of a natural resource.

16           (3) “Destruction” means the total and irreversible loss of natural  
17           resources.

18           (4) “Injury” means a measurable adverse long-term or short-term change  
19           in the chemical or physical quality or viability of a natural resource resulting  
20           either directly or indirectly from exposure to a release of hazardous material or  
21           exposure to a product of reactions from a release of hazardous materials.

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1           (5) “Loss” means a measurable adverse reduction of a chemical or  
2           physical quality or viability of a natural resource.

3           (6) “Natural resource damage assessment” means the process of  
4           collecting, compiling, and analyzing information, statistics, or data through  
5           prescribed methodologies to determine the damages for injuries to a natural  
6           resource.

7           (7) “Natural resources” means fish, wildlife, biota, air, surface water,  
8           groundwater, wetlands, drinking water supplies, or State-held public lands.

9           (8) “Restoring,” “restoration,” “rehabilitating,” or “rehabilitation”  
10           means actions undertaken to return an injured natural resource to its baseline  
11           condition, as measured in terms of the injured resource’s physical, chemical, or  
12           biological properties or the services it had previously provided, when such  
13           actions are in addition to a response action.

14           (b) Authorization. The Secretary may assess damages against any person  
15           found to be liable under section 6615 of this title for a release of hazardous  
16           material for injury to, destruction of, or loss of a natural resource from the  
17           release. The measure of damages that may be assessed for natural resource  
18           damages shall include the cost of restoring or rehabilitating injured, damaged,  
19           or destroyed natural resources, compensation for the interim injury to or loss of  
20           natural resources pending recovery, and any reasonable costs of the Secretary  
21           in conducting a natural resource damage assessment.

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- 1        (c) Rulemaking; methodology. The Secretary shall adopt rules to  
2        implement the requirements of this section, including a methodology by which  
3        the Secretary shall assess and value natural resource damages. The rules shall  
4        include:
- 5                (1) requirements or acceptable standards for the preassessment of  
6        natural resource damages, including requirements for:
- 7                        (A) notification of the Secretary or other necessary persons;  
8                        (B) authorized emergency response to natural resource damages; and  
9                        (C) sampling or screening of the potentially injured natural resource;
- 10                (2) requirements for a natural resource damages assessment plan to  
11        ensure that the natural resource damage assessment is performed in a designed  
12        and systematic manner, including:
- 13                        (A) the categories of reasonable and necessary costs that may be  
14        incurred as part of the assessment plan;
- 15                        (B) the methodologies for identifying and screening costs;  
16                        (C) the types of assessment procedures available to the Secretary,  
17        when the available procedures are authorized, and the requirements of the  
18        available procedures;
- 19                        (D) how injury or loss shall be determined and how injury or loss is  
20        quantified; and
- 21                        (E) how damages are determined;

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1           (3) requirements for post-natural resource damages assessment,

2           including:

3                   (A) the documentation that the Secretary shall produce to complete

4           the assessment;

5                   (B) how the Secretary shall seek recovery; and

6                   (C) when and whether the Secretary shall require a restoration

7           plan; and

8                   (4) other requirements deemed necessary by the Secretary for

9           implementation of the rules.

10           (d) Exceptions. The Secretary shall not seek to recover natural resource

11           damages under this section when:

12                   (1) the person liable for the release demonstrates that the alleged natural

13           resource damages were identified as a potential irreversible or irretrievable

14           environmental effect on natural resource damages in an application for,

15           renewal of, review of, or other environmental assessment of a permit,

16           certification, license, or other required authorization;

17                   (2) the Secretary authorized the identified effect on natural resources in

18           an issued permit, certification, license, or other authorization; and

19                   (3) the person liable for the release was operating within the terms of its

20           permit, certification, license, or other authorization.

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1       (e) Limitations. The natural resource damages authorized under this  
2       section and the requirements for assessment under the rules authorized by this  
3       section shall not limit the authority of the Secretary of Natural Resources to  
4       seek or recover natural resource damages under other State law, federal law, or  
5       common law.

6       Sec. 8. NATURAL RESOURCE DAMAGES; COMMENCEMENT;

7               ADOPTION

8       (a) The Secretary of Natural Resources shall consult with interested parties  
9       in the adoption of rules under 10 V.S.A. § 6615d.

10       (b) The Secretary of Natural Resources shall commence rulemaking under  
11       10 V.S.A. § 6615d on or before January 1, 2017. The Secretary shall adopt  
12       rules under 10 V.S.A. § 6615d on or before November 1, 2017.

13       (c) On or before February 15, 2017, the Secretary of Natural Resources  
14       shall submit to the Senate and House Committees on Natural Resources and  
15       Energy and the House Committee on Fish, Wildlife and Water Resources a  
16       copy of the draft rules for natural resource damages required under 10 V.S.A.  
17       § 6615d for review.

18       (d) The Secretary of Natural Resources shall not seek natural resource  
19       damages under 10 V.S.A. § 6615d until the rules required under 10 V.S.A.  
20       § 6615d(c) have taken effect.

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1                                     \*\*\*Working Group on Toxic Chemicals\*\*\*

2           Sec. 9. AGENCY OF NATURAL RESOURCES' WORKING GROUP ON  
3                                     TOXIC CHEMICAL USE IN THE STATE

4           (a) Formation. On or before July 1, 2016, the Secretary of Natural  
5           Resources shall establish a working group of interested parties to develop  
6           recommendations for how to improve the ability of the State to:

7                             (1) prevent citizens and communities in the State from being exposed to  
8           toxic chemicals, hazardous materials, or hazardous wastes;

9                             (2) identify and regulate the use of toxic chemicals or hazardous  
10           materials that currently are unregulated by the State; and

11                             (3) inform communities and citizens in the State of potential exposure to  
12           toxic chemicals, including contamination of groundwater, public drinking  
13           water systems, and private potable water supplies

14           (b) Duties. The Working Group shall:

15                             (1) recommend actions the State of Vermont could take to improve how  
16           data is collected and what data is collected regarding the location of sites  
17           where toxic chemicals, hazardous materials, or hazardous waste is used, stored,  
18           or managed; and the proximity of these sites to both public and private water  
19           supplies;

20                             (2) recommend actions the State of Vermont could take to improve what  
21           information is made available to the public, and how it is made publicly

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1 available, regarding the risks to private and public drinking water supplies and  
2 groundwater from toxic chemicals, hazardous materials, or hazardous waste;

3 (3) recommend actions the State of Vermont could take to improve the  
4 identification process and consistency of listing and regulating hazardous  
5 materials, hazardous waste, and toxic chemicals regulated by the Department  
6 or Environmental Conservation and the Department of Health, to ensure the  
7 State is adequately identifying chemicals that pose a threat to human health,  
8 and that it has the necessary tools to prevent and respond to chemical threats to  
9 human health;

10 (4) recommend actions the State of Vermont could take to improve the  
11 prevention, detection, and response to the contamination of public drinking  
12 water supplies and groundwater from toxic chemicals, hazardous materials, or  
13 hazardous waste;

14 (5) identify potential fiscal issues related to its recommendations, and  
15 make recommendations on:

16 (A) actions the State of Vermont could take to better fund existing  
17 programs and any recommended improvements;

18 (B) how the State of Vermont should fund the Environmental  
19 Contingency Fund so that it remains a viable source of funding to pay for the  
20 response and remediation of hazardous material releases in the State; and

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1           (6) develop recommended legislative changes that may be needed to  
2           implement recommendations and strategies.

3           (c) The Working Group shall submit a report to the Senate and House  
4           Committees on Natural Resources and Energy and to the House Committee on  
5           Fish, Wildlife and Water Resources with its findings and recommendations on  
6           or before January 15, 2017.

7                                   \* \* \*

8           Sec. 10. 18 V.S.A. § 1775(a) is amended to read:

9           (a) Notice of chemical of high concern to children. ~~Unless the~~  
10           ~~Commissioner adopts by rule a phased-in reporting requirement under section~~  
11           ~~1776 of this title, beginning on July 1, 2016, and biennially thereafter, a Δ~~  
12           ~~manufacturer of a children's product or a trade association representing a~~  
13           ~~manufacturer of children's products shall submit to the Department the notice~~  
14           ~~described in subsection (b) of this section for each chemical of high concern to~~  
15           ~~children in a children's product if a chemical of high concern to children is:~~

16                                   \* \* \*

17           ~~(l) Submission of notice; dates. Unless the Commissioner adopts by rule a~~  
18           ~~phased-in reporting requirement under section 1776 of this title, a~~  
19           ~~manufacturer shall submit the notice required under subsection (a) of this~~  
20           ~~section by:~~

21           ~~(1) January 1, 2017; and~~



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1           (2) August 31, 2018, and biennially thereafter.

2           \* \* \*Basin Planning; Natural Resource Conservation Council\* \* \*

3       Sec. 11. 10 V.S.A. § 1253(d) is amended to read:

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

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

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

4 \* \* \*

5 (G) develop, in consultation with the applicable regional planning  
6 commission or the natural resources conservation council, an analysis and  
7 formal recommendation on conformance with the goals and objectives of  
8 applicable regional plans;

9 \* \* \*

10 (3) The Secretary shall, contingent upon the availability of funding,  
11 contract with a regional planning commission or the natural resources  
12 conservation council to assist in or to produce a basin plan under the schedule  
13 set forth in subdivision (1) of this subsection. When contracting with a  
14 regional planning commission or the natural resources conservation council to  
15 assist in or produce a basin plan, the Secretary may require the regional  
16 planning commission or the natural resources conservation council to:

17 (A) conduct any of the activities required under subdivision (2) of  
18 this subsection;

19 (B) provide technical assistance and data collection activities to  
20 inform municipal officials and the State in making water quality investment  
21 decisions;

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1 (C) coordinate municipal planning and adoption or implementation of  
2 municipal development regulations to better meet State water quality policies  
3 and investment priorities; or

4 (D) assist the Secretary in implementing a project evaluation process  
5 to prioritize water quality improvement projects within the region to assure  
6 cost effective use of State and federal funds.

7 \* \* \*Stormwater Permitting Threshold; One Half of an Acre\* \* \*

8 Sec. 12. 10 V.S.A. § 1264(c) is amended to read:

9 (c) Prohibitions.

10 (1) A person shall not commence the construction ~~or redevelopment~~ of  
11 ~~one~~ one-half of an acre or more of impervious surface without first obtaining a  
12 permit from the Secretary.

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

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

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

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1           (5) A person shall not expand existing impervious surface by more than  
2           5,000 square feet, such that the total resulting impervious area is greater than  
3           ~~one~~ one-half of an acre, without first obtaining a permit from the Secretary.

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

7                       (i) an individual permit;

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

9                       (iii) coverage under a municipal separate storm sewer system

10           permit that implements the technical standards and criteria established by the  
11           Secretary for stormwater improvements of municipal roads.

12           (B) As used in this subdivision (6), “municipality” means a city,  
13           town, or village.

14           (7) In accordance with the schedule established under subdivision (g)(3)  
15           of this section, a person shall not discharge stormwater from impervious  
16           surface of three or more acres in size without first obtaining an individual  
17           permit or coverage under a general permit issued under this section if the  
18           discharge was never previously permitted or was permitted under an individual  
19           permit or general permit that did not incorporate the requirements of the 2002  
20           Stormwater Management Manual or any subsequently adopted Stormwater  
21           Management Manual.

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

3           **Sec. 13.** APPLICABILITY OF AGENCY RULES

4           All Agency of Natural Resources rules applicable to the construction of one  
5           acre or more of impervious surface or the expansion of existing impervious  
6           surface by more than 5,000 square feet, such that the total resulting impervious  
7           area is greater than one acre, shall be applicable to the construction of one-half  
8           of an acre or more of impervious surface or the expansion of existing  
9           impervious surface by more than 5,000 square feet, such that the total resulting  
10           impervious area is greater than one-half of an acre.

11           **Sec. 14.** TRANSITION

12           The construction of less than one acre of impervious surface and the  
13           expansion of existing impervious surface by more than 5,000 square feet, such  
14           that the total resulting impervious surface is less than one acre, shall not  
15           require a permit under 10 V.S.A. § 1264(c)(1) or (5) provided that:

16           (1) except for application for permits issued pursuant to 10 V.S.A.  
17           § 1264(c)(4), complete applications for all local, State, and federal permits  
18           related to the regulation of land use or a discharge to waters of the State have  
19           been submitted as of the effective date of this act, the applicant does not  
20           subsequently file an application for a permit amendment that would have an

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1 adverse impact on water quality, and substantial construction of the project  
2 commences within two years of the effective date of this act;

3 (2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all  
4 local, State, and federal permits related to the regulation of land use or a  
5 discharge to waters of the State have been obtained as of the effective date of  
6 this act, and substantial construction of the project commences within two  
7 years of the effective date of this act;

8 (3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no  
9 local, State, or federal permits related to the regulation of land use or a  
10 discharge to waters of the State are required, and substantial construction of the  
11 project commences within two years of the effective date of this act; or

12 (4) the construction, redevelopment, or expansion is a public  
13 transportation project, and as of the effective date of this act, the Agency of  
14 Transportation or the municipality principally responsible for the project has  
15 initiated right-of-way valuation activities or determined that right-of-way  
16 acquisition is not necessary, and substantial construction of the project  
17 commences within five years of the effective date of this act.

18 \* \* \*State Grants; Water Quality Certification\* \* \*

19 Sec. 15. SECRETARY OF ADMINISTRATION; WATER QUALITY

20 STANDARDS CERTIFICATION FOR STATE-FUNDED GRANTS;

21 REPORT

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1        (a) As used in this section:

2            (1) “Applicant” shall include all entities, including businesses in which  
3            the applicant has a greater than 10 percent interest, or land owned or controlled  
4            by the applicant.

5            (2) “Good standing” means the applicant:

6            (A) is not a named party in any administrative order, consent decree,  
7            or judicial order relating to Vermont water quality standards issued by the  
8            State or any of its agencies or departments; and

9            (B) is in compliance with all federal and State water quality laws and  
10           regulations.

11           (b)(1) The Secretary of Administration shall amend the Standard State  
12           Provisions for Contracts and Grants, referred to as Attachment C to  
13           Administrative Bulletin 5, to require an applicant for a State-funded grant to  
14           certify, under penalty of perjury, that the applicant is in good standing with the  
15           Agency of Natural Resources and the Agency of Agriculture, Food and  
16           Markets.

17           (2) The requirement under this subsection shall allow for an attachment  
18           or include space for an applicant who cannot certify under subdivision (1) of  
19           this subsection to explain the circumstances surrounding the applicant’s  
20           inability to certify under subdivision (1) of this subsection.

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1           (3) At any time prior to the award of a State-funded grant or during  
2           implementation of a State-funded grant, an applicant shall notify the State  
3           agency or department administering the State-funded grant if the applicant is  
4           no longer in good standing with the Agency of Natural Resources or the  
5           Agency of Agriculture, Food and Markets.

6           (c) A State agency or department may consider an applicant’s certification  
7           or explanation under subsection (b) of this section in determining whether or  
8           not to award a State-funded grant to the applicant.

9           (d)(1) If a State-funded grant applicant knowingly provides a false  
10           certification or explanation under subsection (b) of this section or fails to  
11           notify the State agency or department administering the State-funded grant if  
12           the applicant is no longer in good standing with the Agency of Natural  
13           Resources or the Agency of Agriculture, Food and Markets as required in  
14           subdivision (b)(3) of this section, the State or its agencies or departments may:

15                   (A) seek to recover the grant award; and

16                   (B) deny any future grant award to the applicant, based on the false  
17           certification or explanation or failure to notify, for up to five years.

18           (2) In recovering a grant award under this section, the State or its  
19           agencies or departments shall be entitled to costs and expenses, including  
20           attorney’s fees.



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1        (e) This section shall not apply to federally funded grants, contracts, or tax  
2        credits or federal or State loan programs.

3        (f) On or before January 15, 2021, the Secretary of Administration shall  
4        submit a report to the House Committees on Fish, Wildlife and Water  
5        Resources and on Commerce and Economic Development and the Senate  
6        Committees on Natural Resources and Energy and on Economic Development,  
7        Housing and General Affairs regarding methods to require all economic  
8        development assistance applications to include a certification that the applicant  
9        is not in violation of the requirements of programs enforced by the Agency of  
10       Natural Resources under 10 V.S.A. § 8003(a). The report shall also include  
11       information regarding any enforcement action taken by the State or its agencies  
12       or departments under subsection (d) of this section.

13       Sec. 16. EFFECTIVE DATES

14       (a) This act shall take effect on passage, except that:

15            (1) Sec. 15 (State grants; water quality certification) shall take effect  
16            July 1, 2016;

17            (2) Sec. 2 (permitting of surface water sources) shall take effect July 1,  
18            2017; and

19            (3) Secs. 12–14 (stormwater; impervious surface threshold) shall take  
20            effect 45 days after the effective date of the next amendment by rule of the  
21            Agency of Natural Resources' Stormwater Management Manual.