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1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources & Energy to which was referred
3 Senate Bill No. 49 entitled “An act relating to improving the quality of State
4 waters” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 * * * Findings and Purpose * * *

8 Sec. 1. FINDINGS AND PURPOSE

9 (a) Findings. The General Assembly finds that:

10 (1) Within the borders of Vermont there are 7,100 miles of rivers and
11 streams and 812 lakes and ponds of at least five acres in size.

12 (2) Vermont’s surface waters are vital assets that provide the citizens of
13 the State with clean water, recreation, and economic opportunity.

14 (3) The federal Clean Water Act and the Vermont Water Quality
15 Standards require that waters in the State shall not be degraded and instead
16 shall be managed to protect, maintain and improve water quality;

17 (4) To prevent degradation of waters and to preserve the uses, benefits,
18 and values of the lakes, rivers, and streams of Vermont, the Vermont Water
19 Quality Standards provide that it is the policy of the State to prevent, abate, or
20 control all activities harmful to water;

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1 (5) Despite the State and federal mandates to maintain and prevent
2 degradation of State waters, multiple lakes, rivers, and streams in all regions of
3 the State are impaired, at risk of impairment, or subject to water quality
4 stressors, as indicated by the fact that:

5 (A) There are 81 waters or segments of waters in the State that are
6 impaired and require a total maximum daily load (TMDL) plan;

7 (B) There are 114 waters or segments of waters in the State that are
8 impaired and that have been issued a TMDL;

9 (C) There are at least 115 waters or water segments in the State that
10 are stressed, meaning that there is one or more factor or influence that prohibits
11 the water from maintaining a higher quality;

12 (D) there are at least 56 waters in the State that are altered due to
13 aquatic nuisance species, meaning that one or more of the designated uses of
14 the water is prohibited due to the presence of aquatic nuisance species; and

15 (E) there are 73 waters or water segments in the State that are altered
16 by flow regulation, meaning aquatic habitat or designated uses in the waters
17 have been altered due to the occurrence or presence of flow fluctuation,
18 obstructions or other manipulation of water levels;

19 (4) Impairments and other alterations of water can significantly limit
20 how a water is used and whether it can maintained for traditional uses. For
21 example:

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1 (A) Aquatic life is only fully supported in 59 percent of the State’s
2 inland lakes, and

3 (B) Swimming is only fully supported on 76 percent of the State’s
4 inland lakes.

5 (5) Without State action to improve the quality of State waters and
6 prevent further degradation of the quality of existing waters, the State of
7 Vermont will be at risk of losing the valuable, if not necessary functions and
8 uses that the State’s waters provide;

9 (6) Sufficiently addressing, improving, and forestalling degradation of
10 water quality in the State in a sustainable and effective manner will be
11 expensive and the burden of the expense will be felt by all citizens of the State,
12 but without action the economic, cultural, and environmental losses to the State
13 will be immeasurable;

14 (7) To protect the waters of the State and preserve the quality of life of
15 the citizens of Vermont, the State of Vermont should:

16 (A) fully implement the antidegradation implementation policy in the
17 Vermont Water Quality Standards;

18 (B) Enhance, implement, and enforce regulatory requirements for
19 water quality, and

20 (C) Sufficiently and sustainably financing all water quality programs
21 within the State.

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1 (b) Purpose. It is the purpose of this act to:

2 (1) manage and regulate the waters of the State so that water quality is
3 improved and not degraded;

4 (2) manage and plan for the use of State waters and development in
5 proximity to State waters in manner that minimizes damage from and allows
6 for rapid recovery from flooding events;

7 (4) authorize and prioritize proactive measures designed to implement
8 and meet the impending total maximum daily load (TMDL) plan for Lake
9 Champlain, meet impending TMDL plans for other State waters, and improve
10 water quality across the State;

11 (5) identify and prioritize areas in the State where there is the greatest
12 need to act in order to protect, maintain, or improve water quality; and

13 (6) engage more municipalities, agricultural operations, businesses, and
14 other interested parties as part of the State’s efforts to improve the quality of
15 the waters of the State.

16 (7) provide mechanisms, staffing, and financing necessary for State
17 waters to achieve and maintain compliance with the Vermont water quality
18 standards.

19 * * * Agricultural Water Quality;

20 Definitions * * *

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

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1 § 4802. ~~DEFINITION~~ DEFINITIONS

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

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

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

6 § 6001(22).

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

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

14 (5) “Waste” or “agricultural waste” means material originating or
15 emanating from a farm that is determined by the Secretary or the Secretary of
16 Natural Resources to be harmful to the waters of the State, including:
17 sediments; minerals, including heavy metals; plant nutrients; pesticides;
18 organic wastes, including livestock waste, animal mortalities, compost, feed
19 and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution;
20 silage runoff; untreated milkhouse waste; and any other farm waste as the term
21 “waste” is defined in 10 V.S.A. § 1251 (12).

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1 (6) “Water” shall have the same meaning as used in 10 V.S.A.
2 § 1251(13).

3 * * * Agricultural Water Quality;

4 Small Farm Certification and Inspection * * *

5 Sec. 3. 6 V.S.A. subchapter 5a is added to read:

6 Subchapter 5a. Small Farm Certification

7 § 4871. SMALL FARM CERTIFICATION

8 (a) Small farm definition. As used in this section, “small farm” means a
9 parcel or parcels of land used for farming that:

10 (1) includes 10 or more tillable acres of land;

11 (2) houses no more than the number of animals specified under section
12 4857 of this title; and

13 (3)(A) houses five or more livestock; or

14 (B) produced an annual gross income of \$10,000.00 or more from the
15 sale of farm crops or farm products in one of the two, or three of the five,
16 preceding calendar years.

17 (b) Required small farm certification. A person who owns or operates a
18 small farm shall, on a form provided by the Secretary, certify compliance with
19 the required agricultural practices. The Secretary of Agriculture, Food and
20 Markets shall establish the requirements and manner of certification of
21 compliance with the required agricultural practices, provided that the Secretary

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1 shall require an owner or operator of a farm to submit a certification of
2 compliance with the required agricultural practices at least once every five
3 years.

4 (c) Rulemaking; small farm certification. On or before January 1, 2017,
5 the Secretary of Agriculture, Food and Markets shall adopt by rule
6 requirements for a small farm certification of compliance with the required
7 agricultural practices. The rules required by this subsection shall be adopted as
8 part of the required agricultural practices under section 4810 of this title.

9 (d) Small farm inspection. The Secretary may inspect a small farm in the
10 State at any time, but no less than once every three years, for the purposes of
11 assessing compliance by the small farm with the required agricultural practices
12 and determining consistency with a certification of compliance submitted by
13 the person who owns or operates the small farm. The Secretary may prioritize
14 inspections of small farms in the State based on identified water quality issues
15 posed by a small farm.

16 (e) Notice of change of ownership or change of lease. A person who owns
17 or leases a small farm shall notify the Secretary of a change of ownership or
18 change of lessee of a small farm within 30 days of the change. The
19 notification shall include the certification of small farm compliance required
20 under subsection (a) of this section.

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1 (f)(1) Identification; ranking of water quality needs. During an inspection
2 of a small farm under this section, the Secretary shall identify areas where the
3 farm could benefit from capital, structural, or technical assistance in order to
4 improve or come into compliance with the required agricultural practices and
5 any applicable State water quality permit or certification required under this
6 chapter.

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

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

17 (g) Fees. A person required to submit a certification under this section
18 shall submit an annual operating fee of \$250.00 to the Secretary. The fees
19 collected under this section shall be deposited in the Agricultural Water
20 Quality Special Fund under section 4803 of this title.

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

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1 § 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

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

8 (1) Specify those farms that:

9 (A) are required to comply with the small certification requirements
10 under section 4858a of this title; and

11 (B) shall be subject to the required agricultural practices, but shall not
12 be required to comply with small farm certification requirements under section
13 4858a of this title.

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

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

18 (ii) on lands in a floodway or otherwise subject to annual flooding.

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

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

5 (4) Establish standards for nutrient management on farms, including
6 required nutrient management planning on all farms that manage agricultural
7 wastes.

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

13 (6) Require a farm to comply with standards established by the
14 Secretary for maintaining a vegetative buffer zone of perennial vegetation
15 between annual croplands and the top of the bank of an adjoining water of the
16 State. At a minimum the vegetative buffer standards established by the
17 Secretary shall prohibit the application of manure on the farm within 25 feet of
18 the top of the bank of an adjoining water of the State or within 10 feet of a
19 ditch.

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

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

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

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

12 (b) On or before January 15, 2018, the Secretary of Agriculture, Food and
13 Markets shall amend by rule the required agricultural practices in order to
14 include requirements for reducing nutrient contribution to waters of the State
15 from subsurface tile drainage. Upon adoption of requirements for subsurface
16 tile drainage, the Secretary may require an existing subsurface tile drain to
17 comply with the requirements of the RAPs for subsurface tile drainage upon a
18 determination that compliance is necessary to reduce adverse impacts to water
19 quality from the subsurface tile drain.

20 Sec. 5. REPORT ON MANAGEMENT OF SUBSURFACE TILE

21 DRAINAGE

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1 (a) The Secretary of Agriculture, Food and Markets and the Secretary of
2 Natural Resources, after consultation with the U.S. Department of
3 Agriculture’s Natural Resource Conservation Service, shall submit a joint
4 report to the House Committee on Fish, Wildlife and Water Resources, the
5 Senate Committee on Natural Resources and Energy, the House Committee on
6 Agriculture and Forest Products, and the Senate Committee on Agriculture
7 regarding the status of current, scientific research relating to the environmental
8 management of subsurface agriculture tile drainage and how subsurface
9 agriculture tile drainage contributes to nutrient loading of surface waters. The
10 report shall include a recommendation from the Secretary of Agriculture, Food
11 and Markets and the Secretary of Natural Resources regarding how best to
12 manage subsurface agriculture tile drainage in the State in order to mitigate
13 and prevent the contribution of tile drainage to waters of the State.

14 (b) On or before January 15, 2016, the Secretary of Agriculture, Food and
15 Markets and the Secretary of Natural Resources shall submit an interim report
16 that summarizes the progress of the Secretaries in preparing the report required
17 by this section. The Secretary of Agriculture, Food and Markets and the
18 Secretary of Natural Resources shall submit the final report required by this
19 section on or before January 15, 2017.

20 * * * Agricultural Water Quality; Permit Fees * * *

21 Sec. 6. 6 V.S.A. § 4803 is added to read:

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1 § 4803. AGRICULTURAL WATER QUALITY SPECIAL FUND

2 (a) There is created an Agricultural Water Quality Special Fund to be
3 administered by the Secretary of Agriculture, Food and Markets. Fees
4 collected under this chapter, including fees for permits or certifications issued
5 under the chapter, shall be deposited in the Fund.

6 (b) The Secretary may use monies deposited in the Fund for the Secretary's
7 implementation and administration of agricultural water quality programs or
8 requirements established by this chapter, including to pay salaries of Agency
9 staff necessary to implement the programs and requirements of this chapter.

10 (c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned
11 by the Fund shall be retained in the Fund from year to year.

12 Sec. 7. 6 V.S.A. § 4851 is amended to read:

13 § 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

14 (a) No person shall, without a permit from the ~~secretary~~ Secretary,
15 construct a new barn, or expand an existing barn, designed to house more than
16 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves,
17 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55
18 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens
19 or broilers with a liquid manure handling system, 82,000 laying hens without a
20 liquid manure handling system, 125,000 chickens other than laying hens
21 without a liquid manure handling system, 5,000 ducks with a liquid manure

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1 handling system, or 30,000 ducks without a liquid manure handling system.
2 No permit shall be required to replace an existing barn in use for livestock or
3 domestic fowl production at its existing capacity. The ~~secretary of agriculture,~~
4 ~~food and markets~~ Secretary of Agriculture, Food and Markets, in consultation
5 with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall
6 review any application for a permit under this section with regard to water
7 quality impacts and, prior to approval of a permit under this subsection, shall
8 issue a written determination regarding whether the applicant has established
9 that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant
10 to the federal regulations for concentrated animal feeding operations. If upon
11 review of an application for a permit under this subsection, the ~~secretary of~~
12 ~~agriculture, food and markets~~ Secretary of Agriculture, Food and Markets
13 determines that the permit applicant may be discharging to waters of the ~~state~~
14 State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
15 Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural
16 Resources shall respond to the discharge in accordance with the memorandum
17 of understanding regarding concentrated animal feeding operations under
18 subsection ~~4810(b)~~ 4810 of this title. The ~~secretary of natural resources~~
19 Secretary of Natural Resources may require a large farm to obtain a permit
20 under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal
21 feeding operations.

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(h) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Sec. 8. 6 V.S.A. § 4858 is amended to read:

§ 4858. ANIMAL WASTE PERMITS MEDIUM FARM OPERATION

PERMITS

(a) No person shall operate a medium farm without authorization from the ~~secretary~~ Secretary pursuant to this section. Under exceptional conditions, specified in subsection ~~(e)~~(d) of this section, authorization from the ~~secretary~~ Secretary may be required to operate a small farm.

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

* * *

(2) The rules adopted under this section shall also address permit administration, public notice and hearing, permit enforcement, permit

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1 transition, revocation, and appeals consistent with provisions of sections 4859,
2 ~~4860~~, and 4861 of this title and subchapter 10 of this chapter.

3 * * *

4 (c)(1) Medium farm general permit. The owner or operator of a medium
5 farm seeking coverage under a general permit adopted pursuant to this section
6 shall certify to the ~~secretary~~ Secretary within a period specified in the permit,
7 and in a manner specified by the ~~secretary~~ Secretary, that the medium farm
8 does comply with permit requirements regarding an adequately sized and
9 designed manure management system to accommodate the wastes generated
10 and a nutrient management plan to dispose of wastes in accordance with
11 ~~accepted~~ required agricultural practices adopted under this chapter. Any
12 certification or notice of intent to comply submitted under this subdivision
13 shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of
14 Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~
15 Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary~~
16 ~~of natural resources~~ Secretary of Natural Resources, shall review any
17 certification or notice of intent to comply submitted under this subdivision
18 with regard to the water quality impacts of the medium farm for which the
19 owner or operator is seeking coverage, and, within 18 months of receiving the
20 certification or notice of intent to comply, shall verify whether the owner or
21 operator of the medium farm has established that there will be no unpermitted

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1 discharge to waters of the ~~state~~ State pursuant to the federal regulations for
2 concentrated animal feeding operations. If upon review of a medium farm
3 granted coverage under the general permit adopted pursuant to this subsection,
4 the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
5 and Markets determines that the permit applicant may be discharging to waters
6 of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of
7 Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary
8 of Natural Resources shall respond to the discharge in accordance with the
9 memorandum of understanding regarding concentrated animal feeding
10 operations under ~~subsection 4810(b)~~ section 4810 of this title.

11 * * *

12 (e) A person required to obtain a permit or coverage under this section shall
13 submit an annual operating fee of \$1,500.00 to the Secretary. The fees
14 collected under this section shall be deposited in the Agricultural Water
15 Quality Special Fund under section 4803 of this title.

16 Sec. 9. 6 V.S.A. § 324 is amended to read:

17 § 324. REGISTRATION AND FEES

18 (a) No person shall manufacture a commercial feed in this State unless that
19 person has first filed with the Vermont Agency of Agriculture, Food and
20 Markets, in a form and manner to be prescribed by rules by the Secretary:

21 (1) the name of the manufacturer;

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- 1 (2) the manufacturer's place of business;
- 2 (3) the location of each manufacturing facility; and
- 3 (4) any other information which the Secretary considers to be necessary.

4 (b) A person shall not distribute in this State a commercial feed that has not
5 been registered pursuant to the provisions of this chapter. Application shall be
6 in a form and manner to be prescribed by rule of the Secretary. The
7 application for registration of a commercial feed shall be accompanied by a
8 registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees
9 collected, \$85.00 of each collected fee, along with any surcharges collected
10 under subsection (c) of this section, shall be deposited in the special fund
11 created by subsection 364(e) of this title. Funds deposited in this account shall
12 be restricted to implementing and administering the provisions of this title and
13 any other provisions of the law relating to fertilizer, lime, or seeds. Of the
14 registration fees collected, \$15.00 of each collected fee shall be deposited in
15 the Agricultural Water Quality Special Fund created under section 4803 of this
16 title. If the Secretary so requests, the application for registration shall be
17 accompanied by a label or other printed matter describing the product.

18 (c) No person shall distribute in this State any feed required to be registered
19 under this chapter upon which the Secretary has placed a withdrawal from
20 distribution order because of nonregistration. A surcharge of \$10.00, in
21 addition to the registration fee required by subsection (b) of this section, shall

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1 accompany the application for registration of each product upon which a
2 withdrawal from distribution order has been placed for reason of
3 nonregistration, and must be received before removal of the withdrawal from
4 distribution order.

5 Sec. 10. 6 V.S.A. § 328 is amended to read:

6 § 328. TONNAGE REPORTING

7 (a) Every person who registers a commercial feed pursuant to the
8 provisions of this chapter shall report to the ~~agency of agriculture, food and~~
9 ~~markets~~ Agency of Agriculture, Food and Markets annually the total amount of
10 combined feed which is distributed within the state and which is intended for
11 use within the ~~state~~ State. The report shall be made on forms and in a manner
12 to be prescribed ~~by rules~~ by the ~~secretary~~ Secretary for calendar years ~~1986~~
13 2016 and ~~1987~~ 2017.

14 (b) This reporting requirement shall not apply to pet foods, within the
15 meaning of subdivisions 323(16) and (19) of this title, and shall not apply to
16 feeds intended for use outside of the state.

17 Sec. 11. 6 V.S.A. § 366 is amended to read:

18 § 366. TONNAGE FEES

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

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

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

11 (d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors~~
12 ~~who distribute fertilizers in this state.~~ [Repealed.]

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

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

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

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1 (h) There shall be paid annually to the Secretary for all fertilizers
2 distributed to a nonregistrant consumer in this State an annual fee at a rate of
3 \$15.00 per ton for the purpose of supporting agricultural water quality
4 programs in Vermont.

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

11 (2) No information concerning tonnage sales furnished to the Secretary
12 under this section shall be disclosed in such a way as to divulge the details of
13 the business operation to any person unless it is necessary for the enforcement
14 of the provisions of this chapter.

15 (3) A \$150.00 minimum tonnage fee shall be assessed on all distributors
16 who distribute fertilizers in this State.

17 (4) Agricultural limes, including agricultural lime mixed with wood ash,
18 are exempt from the tonnage fees required under this subsection.

19 (5) All fees collected under this subsection shall be deposited in the
20 deposited in the Agricultural Water Quality Special Fund created under section
21 4803 of this title.

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1 Sec. 12. 6 V.S.A. § 918 is amended to read:

2 § 918. REGISTRATION

3 (a) Every economic poison which is distributed, sold, or offered for sale
4 within this State or delivered for transportation or transported in intrastate
5 commerce or between points within this State through any point outside this
6 State shall be registered in the Office of the Secretary, and such registration
7 shall be renewed annually; provided, that products which have the same
8 formula, are manufactured by the same person, the labeling of which contains
9 the same claims, and the labels of which bear a designation identifying the
10 product as the same economic poison may be registered as a single economic
11 poison; and additional names and labels shall be added by supplement
12 statements during the current period of registration. It is further provided that
13 any economic poison imported into this State, which is subject to the
14 provisions of any federal act providing for the registration of economic poisons
15 and which has been duly registered under the provisions of this chapter, may,
16 in the discretion of the Secretary, be exempted from registration under this
17 chapter, when sold or distributed in the unbroken immediate container in
18 which it was originally shipped. The registrant shall file with the Secretary a
19 statement including:

20 (1) The name and address of the registrant and the name and address of
21 the person whose name will appear on the label, if other than the registrant.

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1 (2) The name of the economic poison.

2 (3) A complete copy of the labeling accompanying the economic poison
3 and a statement of all claims to be made for it, including directions for use.

4 (4) If requested by the Secretary, a full description of the tests made and
5 the results thereof upon which the claims are based. In the case of renewal of
6 registration, a statement shall be required only with respect to information
7 which is different from that furnished when the economic poison was
8 registered or last re-registered.

9 (b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each
10 product registered, and \$110.00 of that amount shall be deposited in the special
11 fund created in section 929 of this title, of which \$5.00 from each product
12 registration shall be used for an educational program related to the proper
13 purchase, application, and disposal of household pesticides, and \$5.00 from
14 each product registration shall be used to collect and dispose of obsolete and
15 unwanted pesticides. Of the registration fees collected under this subsection,
16 \$15.00 of the amount collected shall be deposited in the Agricultural Water
17 Quality Special Fund created under section 4803 of this title. The annual
18 registration year shall be from December 1 to November 30 of the following
19 year.

20 * * *

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1 * * * Agricultural Water Quality; Required Agricultural Practices; Best
2 Management Practices * * *

3 Sec. 13. 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~~ satisfy the requirements of 33 U.S.C. § 1329 that the State

10 identify and implement best management practices to control nonpoint sources

11 of agricultural waste to waters of the State. These agricultural land use

12 practices shall be created in ~~two~~ three categories, pursuant to ~~subdivisions (1)~~

13 ~~and (2) of this subsection~~ subsections (b), (c), and (d) of this section.

14 ~~(1)(b)~~ Required Agricultural Practices. “~~Accepted~~ Required

15 Agricultural Practices” ~~(AAPs)~~ (RAPs) shall be management standards to be

16 followed ~~in conducting agricultural activities~~ by all persons engaged in

17 farming in this ~~state~~ State. These standards shall address activities which have

18 a potential for causing pollutants to enter the groundwater and waters of the

19 ~~state~~ State, including dairy and other livestock operations plus all forms of crop

20 and nursery operations and on-farm or agricultural fairground, registered

21 pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing

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1 activities. The AAPs RAPs shall include, as well as promote and encourage,
2 practices for farmers in preventing pollutants from entering the groundwater
3 and waters of the ~~state~~ State when engaged in, ~~but not limited to,~~ animal waste
4 management and disposal, soil amendment applications, plant fertilization, and
5 pest and weed control. Persons engaged in farming, ~~as defined in 10 V.S.A. §~~
6 ~~6001,~~ who ~~follow~~ are in compliance with these practices shall be presumed to
7 be in compliance with water quality standards. AAPs RAPs shall be designed
8 to protect water quality and shall be practical and ~~cost effective~~ cost-effective
9 to implement, as determined by the Secretary. The AAPs RAPs for
10 groundwater shall include a process under which the ~~agency~~ Agency shall
11 receive, investigate, and respond to a complaint that a farm has contaminated
12 the drinking water or groundwater of a property owner.

13 (c) Enhanced Practices.

14 (1) As used in this subsection:

15 (A) “Enhanced practices” mean management standards for persons
16 engaged in farming that exceed the requirements of the RAPs, and shall
17 include cover cropping, conservation tillage, vegetative buffer zones adjacent
18 to waters of the State based on site-specific conditions, and other management
19 practices required by the Secretary.

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1 (B) “Nutrient impaired watershed” means the watershed of a water of
2 the State that is listed as impaired pursuant to 33 U.S.C. § 1313(d) and to
3 which agricultural nutrients are a significant contributor of the impairment.

4 (2) The Secretary shall require a person engaged in farming to
5 implement enhanced practices if, during inspection of a large farm, medium
6 farm, or small farm located in a nutrient impaired watershed, the Secretary
7 identifies areas on the farm with potential for the release, discharge, or runoff
8 of nutrients or other pollutants to the waters of the State.

9 ~~(2)(d) Best Management Practices. “Best Management Practices”~~
10 ~~(BMPs) may be required by the secretary on a case by case basis. Before~~
11 ~~requiring BMPs, the secretary shall determine that sufficient financial~~
12 ~~assistance is available to assist farmers in achieving compliance with~~
13 ~~applicable BMPs. Best management practices (BMPs) are site-specific~~
14 ~~on-farm remedies implemented in order to address water quality problems and~~
15 ~~in order to achieve compliance with the requirements of this chapter or State~~
16 ~~water quality standards. The Secretary may require any person engaged in~~
17 ~~farming to implement a BMP. When requiring implementation of a BMP, the~~
18 ~~Secretary shall inform a person engaged in farming of the resources available~~
19 ~~to assist the person in implementing BMPs and complying with the~~
20 ~~requirements of this chapter.~~ BMPs shall be practical and cost effective to

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1 implement, as determined by the Secretary, and shall be designed to achieve
2 compliance with the requirements of this chapter.

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

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1 shall describe program administration, permit issuance, an appellate process,
2 and enforcement authority and implementation. The memorandum of
3 understanding shall be consistent with the federal National Pollutant Discharge
4 Elimination System permit regulations for discharges from concentrated
5 animal feeding operations. The allocation of duties under this chapter between
6 ~~the secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
7 and Markets and the ~~secretary of natural resources~~ Secretary of Natural
8 Resources shall be consistent with the ~~secretary's~~ Secretary's duties,
9 established under the provisions of 10 V.S.A. § 1258(b), to comply with Public
10 Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural
11 Resources shall be the ~~state~~ State lead person in applying for federal funds
12 under Public Law 92-500, but shall consult with the ~~secretary of agriculture,~~
13 ~~food and markets~~ Secretary of Agriculture, Food and Markets during the
14 process. The agricultural non-point source program may compete with other
15 programs for competitive watershed projects funded from federal funds. The
16 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
17 Markets shall be represented in reviewing these projects for funding. Actions
18 by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
19 Food and Markets under this chapter concerning agricultural non-point source
20 pollution shall be consistent with the water quality standards and water
21 pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the

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1 federal Clean Water Act as amended. In addition, the ~~secretary of agriculture,~~
2 ~~food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate
3 with the ~~secretary of natural resources~~ Secretary of Natural Resources in
4 implementing and enforcing programs, plans, and practices developed for the
5 proper management of composting facilities when those facilities are located
6 on a farm.

7 Sec. 14. 6 V.S.A. § 4813 is amended to read:

8 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~
9 ~~RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

10 (a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
11 Food and Markets shall cooperate with the ~~secretary of natural resources~~
12 Secretary of Natural Resources in the basin planning process with regard to the
13 agricultural non-point source waste component of each basin plan. Any person
14 with an interest in the agricultural non-point source component of the basin
15 planning process may petition the ~~secretary of agriculture, food and markets~~
16 Secretary of Agriculture, Food and Markets to require, and the ~~secretary~~
17 Secretary may require, best management practices in the individual basin
18 beyond ~~accepted~~ required agricultural practices adopted by rule, in order to
19 achieve compliance with the water quality goals in 10 V.S.A. § 1250 and any
20 duly adopted basin plan. The ~~secretary of agriculture, food and markets~~
21 Secretary of Agriculture, Food and Markets shall hold a public hearing within

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1 60 days and shall issue a timely written decision that sets forth the facts and
2 reasons supporting the decision.

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

10 (c) ~~Before requiring best management practices under this section, the~~
11 ~~secretary of agriculture, food and markets or the board shall determine that~~
12 ~~sufficient financial assistance is available to assist farmers in achieving~~
13 ~~compliance with applicable best management practices~~ When requiring
14 implementation of a best management practice, the Secretary shall inform a
15 farmer of the resources available to assist the farmer in implementing the best
16 management practice and complying with the requirements of this chapter.

17 * * * Agricultural Water Quality; Training * * *

18 Sec. 15. 6 V.S.A. chapter 215, subchapter 8 is added to read:

19 Subchapter 8. Agricultural Water Quality Training

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1 § 4981. AGRICULTURAL WATER QUALITY TRAINING

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

6 (1) the prevention of discharges, as that term is defined in 10 V.S.A.
7 § 1251(3); and

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

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

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

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

16 (3) the land application of manure, nutrients, septage, or sludge;
17 methods or techniques to minimize the runoff of land-applied manure,
18 nutrients, septage, or sludge to waters of the State; and identification of
19 weather or soil conditions that increase the risk of runoff of land-applied
20 manure, nutrients, septage, or sludge to waters of the State.

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1 (c) The Secretary shall include the training required by this section as a
2 condition of a large farm permit, medium farm permit, or small farm
3 certification required under this chapter. The Secretary may phase in training
4 requirements under this section based on farm size, permit or certification
5 category, or available staffing. On or before January 1, 2016 the Secretary
6 shall establish a schedule by which all owners or operators of small farms,
7 medium farms, or large farms shall complete the training required by this
8 section.

9 * * * Agricultural Water Quality;

10 Certification of Custom Applicators * * *

11 Sec. 16. 6 V.S.A. chapter 215, subchapter 9 is added to read:

12 Subchapter 9. Certification of Custom Applicators of Manure,

13 Nutrients, Septage, or Sludge

14 § 4987. DEFINITIONS

15 As used in this subchapter:

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

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

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

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

9 § 4988. CERTIFICATION OF CUSTOM APPLICATOR

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

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

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

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

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1 (c) The requirements of this section shall not apply to an owner or operator
2 of a farm applying manure, nutrients, septage, or sludge to a field that he or she
3 owns or controls, provided that the owner or operator has completed the
4 agricultural water quality training required under section 4981 of this title.

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

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

7 Subchapter 10. Enforcement

8 § 4991. PURPOSE

9 The purpose of this subchapter is to provide the Secretary of Agriculture,
10 Food and Markets with the necessary authority to enforce the agricultural
11 water quality requirements of this chapter. When the Secretary of Agriculture,
12 Food and Markets determines that a person subject to the requirements of the
13 chapter is violating a requirement of this chapter, the Secretary shall respond to
14 and require discontinuance of the violation. The Secretary may respond to a
15 violation of the requirements of this chapter by:

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

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

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

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

21 (5) bringing a civil enforcement action under section 4995 of this title;

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1 (6) referring the violation to the Secretary of Natural Resources for
2 enforcement under 10 V.S.A. chapter 201; or

3 (7) pursuing other action, such as consulting with a farmer, within the
4 authority of the Secretary to assure discontinuance of the violation and
5 remediation of any harm caused by the violation.

6 § 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

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

12 (1) a description of the alleged violation;

13 (2) identification of this section;

14 (3) identification of the applicable statute, rule, or permit condition
15 violated;

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

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

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

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

3 (c) 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 section 4993 or section 4995 of this section
6 in order to protect water quality.

7 § 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST
8 ORDERS; EMERGENCY ORDERS

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

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

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

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

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

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

4 (3) Institute appropriate proceedings on behalf of the Agency of
5 Agriculture, Food and Markets to enforce the requirements of this chapter,
6 rules adopted under this chapter, or a permit or certification issued under this
7 chapter.

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

14 (5) Seek administrative or civil penalties in accordance with the
15 requirements of section 15, 16, 17, or 4995 of this title. Notwithstanding the
16 requirements of section 15 of this title to the contrary, the maximum
17 administrative penalty issued by the Secretary under this section shall not
18 exceed \$5,000.00 for each violation, and the maximum amount of any
19 administrative penalty assessed for separate and distinct violations of this
20 chapter shall not exceed \$50,000.00.

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

7 § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

8 The Secretary may, after due notice and hearing, revoke or condition
9 coverage under a general permit, an individual permit, a small farm
10 certification, or other permit or certification issued under this chapter or rules
11 adopted under this chapter when the person subject to the permit or
12 certification fails to comply with a requirement of this chapter or any term,
13 provision, or requirements of a permit or certification required by this chapter.

14 The Secretary may also seek enforcement remedies and penalties under this
15 subchapter against any person who fails to comply with any term, provision, or
16 requirements of a permit or certification required by this chapter or who
17 violates the terms or conditions of coverage under any general permit, any
18 individual permit, or any certification issued under this chapter.

19 § 4995. CIVIL ENFORCEMENT

20 (a) The Secretary may bring an action in the Civil Division of the Superior
21 Court to enforce the requirements of this chapter, or rules adopted under this

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1 chapter, or any permit or certification issued under this chapter, to assure
2 compliance, and to obtain penalties in the amounts described in subsection (b)
3 of this section. The action shall be brought by the Attorney General in the
4 name of the State.

5 (b) The court may grant temporary and permanent injunctive relief,
6 and may:

7 (1) Enjoin future activities.

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

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

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

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

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

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

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

16 (A) a violation exists; or

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

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

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

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

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

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

10 (3) whether the respondent knew or had reason to know the violation
11 existed;

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

13 (5) the deterrent effect of the penalty;

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

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

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

18 § 4996. APPEALS; ENFORCEMENT

19 (a) Any person subject, under this subchapter, to an administrative
20 enforcement order, an administrative penalty, or revocation of a permit or
21 certification who is aggrieved by a final decision of the Secretary may appeal

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1 to the Superior Court within 30 days of the decision. The administrative judge
2 may specially assign an environmental judge to Superior Court for the purpose
3 of hearing an appeal.

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

15 Sec. 18. 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~~

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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.

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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. 19. 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.]~~

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1 Sec. 20. 6 V.S.A. § 4860 is amended to read:

2 § 4860. ~~REVOCATION; ENFORCEMENT~~

3 (a) ~~The secretary may revoke coverage under a general permit or an~~
4 ~~individual permit issued under this subchapter after following the same process~~
5 ~~prescribed by section 2705 of this title regarding the revocation of a handler's~~
6 ~~license. The secretary may also seek enforcement remedies under sections 1,~~
7 ~~11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty~~
8 ~~under section 15 of this title from any person who fails to comply with any~~
9 ~~permit provision as required by this subchapter or who violates the terms or~~
10 ~~conditions of coverage under any general permit or any individual permit~~
11 ~~issued under this subchapter. However, notwithstanding provisions of section~~
12 ~~15 of this title to the contrary, the maximum administrative penalty assessed~~
13 ~~for a violation of this subchapter shall not exceed \$5,000.00 for each violation,~~
14 ~~and the maximum amount of any penalty assessed for separate and distinct~~
15 ~~violations of this chapter shall not exceed \$50,000.00.~~

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

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

11 * * * Stream Alteration; Agricultural Activities * * *

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

13 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

14 (a) A person shall not change, alter, or modify the course, current, or cross
15 section of any watercourse or of designated outstanding resource waters,
16 within or along the boundaries of this State either by movement, fill, or
17 excavation of ten cubic yards or more of instream material in any year, unless
18 authorized by the Secretary. A person shall not establish or construct a berm in
19 a flood hazard area or river corridor, as those terms are defined in subdivisions
20 752(3) and (11) of this title, unless permitted by the Secretary or constructed as
21 an emergency protective measure under subsection (b) of this section.

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* * *

(f) This subchapter shall not apply to:

(1) ~~accepted agricultural or silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets, or~~ silvicultural practices, including the acceptable management practices for maintaining water quality on logging jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation, ~~respectively; or~~

(2) a farm that is implementing an approved U.S. Department of Agriculture Natural Resource Conservation Service streambank stabilization project or a streambank stabilization project approved by the Secretary of Agriculture, Food and Markets that is consistent with policies adopted by the Secretary of Natural Resources to reduce fluvial erosion hazards.

* * *

* * * Use Value Appraisal; Compliance with Agricultural Water Quality Requirements * * *

Sec. 22. 32 V.S.A. § 3756(i) is amended to read:

(i)~~(1)~~ The Director shall remove from use value appraisal an entire parcel of managed ~~forest land~~ forestland and notify the owner ~~in accordance with the procedure in subsection (b) of this section~~ when the ~~Department~~ Commissioner of Forests, Parks and Recreation has not received a management activity report or has received an adverse inspection report, unless the lack of conformance

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1 consists solely of the failure to make prescribed planned cutting. In that case,
2 the Director may delay removal from use value appraisal for a period of one
3 year at a time to allow time to bring the parcel into conformance with the plan.

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

7 (i) found, after administrative hearing, or contested judicial
8 hearing or motion, to be in violation of water quality requirements established
9 under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification
10 issued under 6 V.S.A. chapter 215; or

11 (ii) who is not in compliance with the terms of an administrative
12 or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a
13 violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or
14 any permit or certification issued under 6 V.S.A. chapter 215.

15 (B) The Director shall notify the owner that agricultural land or a
16 farm building has been removed from use value appraisal by mailing
17 notification of removal to the owner or operator's last and usual place of
18 abode. After removal of agricultural land or a farm building from use value
19 appraisal under this section, the Director shall not consider a new application
20 for use value appraisal for the agricultural land or farm building until the
21 Secretary of Agriculture, Food and Markets submits to the Director a

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1 certification that the owner or operator of the agricultural land or farm building
2 is complying with the water quality requirements of 6 V.S.A. chapter 215 or an
3 order issued under 6 V.S.A. chapter 215. After submission of a certification by
4 the Secretary of Agriculture, Food and Markets, an owner or operator shall be
5 eligible to apply for enrollment of the agricultural land or farm building
6 according to the requirements of section 3756 of this title.

7 Sec. 23. 32 V.S.A. § 3758 is amended to read:

8 § 3758. APPEALS

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

17 * * *

18 (e) When the Director removes agricultural land or a farm building
19 pursuant to notification from the Secretary of Agriculture, Food and Markets
20 under section 3756 of this title, the exclusive right of appeal shall be as
21 provided in 6 V.S.A. § 4996(a).

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1 Sec. 24. 32 V.S.A. § 3752(5) is amended to read:

2 (5) “Development” means, for the purposes of determining whether a
3 land use change tax is to be assessed under section 3757 of this chapter, the
4 construction of any building, road, or other structure, or any mining,
5 excavation, or landfill activity. “Development” also means the subdivision of
6 a parcel of land into two or more parcels, regardless of whether a change in use
7 actually occurs, where one or more of the resulting parcels contains less than
8 25 acres each; but if subdivision is solely the result of a transfer to one or more
9 of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of
10 the transferor, or to the surviving spouse of any of the foregoing, then
11 “development” shall not apply to any portion of the newly created parcel or
12 parcels which qualifies for enrollment and for which, within 30 days following
13 the transfer, each transferee or transferor applies for reenrollment in the use
14 value appraisal program. “Development” also means the cutting of timber on
15 property appraised under this chapter at use value in a manner contrary to a
16 forest or conservation management plan as provided for in subsection 3755(b)
17 of this title during the remaining term of the plan, or contrary to the minimum
18 acceptable standards for forest management if the plan has expired; or a
19 change in the parcel or use of the parcel in violation of the conservation
20 management standards established by the Commissioner of Forests, Parks and
21 Recreation. “Development” also means notification of the Director by the

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1 Secretary of Agriculture, Food and Markets under section 3756 of this title that
2 the owner or operator of agricultural land or a farm building is violating the
3 water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with
4 the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The
5 term “development” shall not include the construction, reconstruction,
6 structural alteration, relocation, or enlargement of any building, road, or other
7 structure for farming, logging, forestry, or conservation purposes, but shall
8 include the subsequent commencement of a use of that building, road, or
9 structure for other than farming, logging, or forestry purposes.

10 * * * Agency of Natural Resources Basin Planning * * *

11 Sec. 25. 10 V.S.A. § 1253 is amended to read:

12 § 1253. CLASSIFICATION OF WATERS DESIGNATED,
13 RECLASSIFICATION

14 * * *

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

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1 management plan shall include a schedule for updating the basin plans. The
2 Secretary, in consultation with regional planning commissions and natural
3 resource conservation districts, shall revise all ~~47~~ 15 basin plans ~~by January 1,~~
4 ~~2006,~~ and update ~~them every five years thereafter~~ the basin plans on a
5 five-year rotating basis. On or before January ~~4~~ 15 of each year, the Secretary
6 shall report to the House Committees on Agriculture and Forest Products, on
7 Natural Resources and Energy, and on Fish, Wildlife and Water Resources,
8 and to the Senate Committees on Agriculture and on Natural Resources and
9 Energy regarding the progress made and difficulties encountered in revising
10 basin plans. ~~By January 1, 1993, the Secretary shall prepare an overall~~
11 ~~management plan to ensure that the water quality standards are met in all State~~
12 ~~waters.~~ The report shall include a schedule for the production of basin plans in
13 the subsequent calendar year and a summary of actions to be taken over the
14 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of
15 required reports) shall not apply to the report to be made under this subsection.

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

17 (A) assure that municipal officials, citizens, watershed groups, and
18 other interested groups and individuals are involved in the basin planning
19 process;

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

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

3 (D) develop, in consultation with the applicable regional planning
4 commission, an analysis and formal recommendation on conformance with the
5 goals and objectives of applicable regional plans.

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

11 (A) conduct any of the activities required under subdivision (2) of
12 this subsection;

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

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

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

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

3 (1) existing and obtainable water qualities;

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

6 (3) natural sources of pollution;

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

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

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

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

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

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

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

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

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

4 Sec. 26. 24 V.S.A. § 4302 is amended to read:

5 § 4302. PURPOSE; GOALS

6 * * *

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

10 * * *

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

13 * * *

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

16 (A) Vermont's air, water, wildlife, mineral and land resources should
17 be planned for use and development according to the principles set forth in
18 10 V.S.A. § 6086(a).

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

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Sec. 27. 24 V.S.A. § 4348(c) is amended to read:

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

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

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

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

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

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

Sec. 28. 24 V.S.A. § 4348a(a) is amended to read:

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1 (a) A regional plan shall be consistent with the goals established in section
2 4302 of this title and shall include the following:

3 * * *

4 (6) A statement of policies on the:

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

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

10 * * *

11 * * * Antidegradation Policy Implementation Rule * * *

12 Sec. 29. 10 V.S.A. § 1251a(c) is amended to read:

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

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1 ~~antidegradation policy shall be filed with the Secretary of State under 3 V.S.A.~~

2 ~~§ 841.~~

3 * * * Stormwater Management * * *

4 Sec. 30. 10 V.S.A. § 1264 is amended to read:

5 § 1264. STORMWATER MANAGEMENT

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

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1 ~~Pollutant Discharge Elimination System (NPDES) permit program in~~
2 ~~accordance with section 1258 of this title. The second program is a State~~
3 ~~permit program based on the requirements of this section for the discharge of~~
4 ~~“regulated stormwater runoff” as that term is defined in subdivision (11) of this~~
5 ~~subsection. As used in this section:~~

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

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

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

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

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

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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~~

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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.~~

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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:~~

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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~~

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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.~~

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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~~

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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~~

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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~~

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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~~

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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;~~

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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,~~

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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~~

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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~~

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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~~

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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.~~

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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:~~

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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.~~

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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 flooding, all of which have adverse impacts on the
5 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 stormwater runoff is
20 different from the discharge of sanitary and industrial wastes because of the
21 influence of natural events of stormwater runoff, the variations in

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1 characteristics of those runoffs, and the increased stream flows causing
2 degradation of the quality of the receiving water 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 or 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) “Expansion” and “the expanded portion of an existing discharge”
10 mean an increase or addition of impervious surface, such that the total resulting
11 impervious area is greater than the minimum regulatory threshold.

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

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

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

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

7 Redevelopment does not mean public road management activities, including
8 any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading
9 treatments used to maintain pavement, bridges, and unpaved roads.

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

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

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

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

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

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

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

16 (15) “Water quality remediation plan” means a plan, other than a
17 TMDL, designed to bring an impaired water body into compliance with
18 applicable water quality standards in accordance with 40 C.F.R.
19 § 130.7(b)(1)(ii) and (iii).

20 (16) “Watershed improvement permit” means a general permit specific
21 to a stormwater-impaired water that is designed to apply management

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1 strategies to existing and new discharges and that includes a schedule of
2 compliance no longer than five years reasonably designed to assure attainment
3 of the Vermont water quality standards in the receiving waters.

4 (c) Prohibitions.

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

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

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

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

17 (5) A person shall not expand existing impervious surface by more than
18 5,000 square feet, such that the total resulting impervious area is greater than
19 one acre, without first obtaining a permit from the Secretary.

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1 (6)(A) In accordance with the schedule established under subsection
2 (g)(2) of this section, a municipality shall not discharge stormwater from a
3 municipal road without first obtaining:
4 (i) an individual permit;
5 (ii) coverage under a municipal road general permit; or
6 (iii) coverage under a municipal separate stormsewer system
7 permit that implements the technical standards and criteria established by the
8 Secretary for stormwater improvements of municipal roads.

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

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

19 (d) Exemptions. No permit is required under this section for:
20 (1) Stormwater runoff from farms in compliance with agricultural
21 practices adopted by the Secretary of Agriculture, Food and Markets.

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

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

7 (4) Stormwater systems that were permitted under subdivision (c)(1) or
8 (5) of this section and for which a municipality has assumed full legal
9 responsibility for that stormwater system. As used in this subdivision, “full
10 legal responsibility” means a legal control of the stormwater system, including
11 a legal right to access the stormwater system, a legal duty to properly maintain
12 the stormwater system, and a legal duty to repair and replace the stormwater
13 system when it no longer adequately protects waters of the State.

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

15 (e) State designation. The Secretary shall require a permit under this
16 section for a discharge or stormwater runoff from any size of impervious
17 surfaces upon a determination by the Secretary that the treatment of the
18 discharge or stormwater runoff is necessary to reduce the adverse impacts to
19 water quality of the discharge or stormwater runoff taking into consideration
20 any of the following factors: the size of the impervious surface, drainage
21 patterns, hydraulic connectivity, existing stormwater treatment, stormwater

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1 controls necessary to implement the wasteload allocation of a TMDL, or other
2 factors. The Secretary may make this determination on a case-by-case basis or
3 according to classes of activities, classes of runoff, or classes of discharge.

4 The Secretary may make a determination under this subsection based on
5 activities, runoff, discharges, or other information identified during the basin
6 planning process.

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

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

10 (A) assuring compliance with the Vermont Water Quality
11 Standards; and

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

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

17 (3) Assure consistency with applicable requirements of the federal Clean
18 Water Act.

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

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1 (5) Specify minimum requirements for inspection and maintenance of
2 stormwater management practices.

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

5 (7) Allow municipal governments to assume the full legal responsibility
6 for a stormwater system permitted under these rules as a part of a permit issued
7 by the Secretary.

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

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

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

20 (11) Include standards for alternative best management practices for
21 stormwater permitting of renewable energy projects and telecommunication

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1 facilities located in high-elevation settings, provided that the alternative best
2 management practices shall be designed to:

3 (1) minimize the extent and footprint of stormwater-treatment practices
4 in order to preserve vegetation and trees;

5 (2) adapt to and minimize impact to ecosystems, shallow soils, and
6 sensitive streams found in high-elevation settings; and

7 (3) account for the temporary nature and infrequent use of construction
8 and access roads high-elevation projects.

9 (g) General permits.

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

13 (2)(A) The Secretary shall issue by December 31, 2017, a general permit
14 for discharges of regulated stormwater from municipal roads. Under the
15 municipal roads stormwater general permit, the Secretary shall:

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

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

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

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

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

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

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

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

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

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

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

8 (3) On or before January 1, 2018, the Secretary shall issue a general
9 permit under this section for discharges of stormwater from impervious surface
10 of three or more acres in size, when the stormwater discharge previously was
11 not permitted or was permitted under an individual permit or general permit
12 that did not incorporate the requirements of the 2002 Stormwater Management
13 Manual or any subsequently adopted Stormwater Management Manual. Under
14 the general permit, the Secretary shall:

15 (A) Establish a schedule for implementation of the general permit by
16 geographic area of the State. The schedule shall establish the date by which an
17 owner of impervious surface shall apply for coverage under subdivision (g)(3)
18 of this section. The schedule established by the Secretary shall require an
19 owner of impervious surface subject to permitting under this subdivision to
20 obtain coverage by the following dates:

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1 (i) for impervious surface located within the Lake Champlain
2 watershed, no later than October 1, 2023; and

3 (ii) for impervious surface located within all other watersheds of
4 the State, no later than October 1, 2028.

5 (B) Establish criteria and technical standards, such as best
6 management practices, for implementation of stormwater improvements for the
7 retrofitting of impervious surface subject to permitting under this subdivision.

8 (C) Require that a discharge of stormwater from redeveloped or
9 retrofitted impervious surface comply with the applicable standards of
10 subsection (h) of this section.

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

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

15 (1) Be valid for a period of time not to exceed five years.

16 (2) For discharges of regulated stormwater to a stormwater impaired
17 water, to Lake Champlain, or to a water that contributes to the impairment of
18 Lake Champlain:

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

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

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

11 (B) In which a TMDL or water quality remediation plan has been
12 adopted, require that the discharge shall comply with the following discharge
13 standards:

14 (i) For a new discharge or the expanded portion of an existing
15 discharge, the discharge shall satisfy the requirements of the Stormwater
16 Management Manual, and the Secretary shall determine that there is sufficient
17 pollutant load allocations for the discharge.

18 (ii) For redevelopment of or renewal of a permit for existing
19 impervious surface, the Secretary shall determine that there is sufficient
20 pollutant load allocations for the discharge and the Secretary shall include any

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1 requirements that the Secretary deems necessary to implement the TMDL or
2 water quality remediation plan.

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

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

13 (j) Presumption. In any appeal under this chapter, an individual permit
14 issued under subdivisions (c)(1) and (c)(5) of this section shall have a
15 rebuttable presumption in favor of the permittee that the discharge does not
16 cause or contribute to a violation of the Vermont Water Quality Standards for
17 the receiving waters with respect to the discharge of regulated stormwater
18 runoff, provided that the discharge is to a water that is not principally impaired
19 due to stormwater.

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1 Sec. 31. ANR REPORT ON REGULATORY THRESHOLD FOR
2 PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS
3 SURFACES

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

10 The report shall include:

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

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

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

20 (4) an estimate of the number of staff that would be needed by the
21 Agency of Natural Resources to effectively implement a stormwater operating

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1 permit program with a regulatory permitting threshold of one-half acre of
2 impervious surface; and

3 (5) a recommendation for regulating construction, redevelopment, or
4 expansion of impervious surface based on a tiered system of acreage, square
5 footage, or other measure.

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

7 Sec. 32. STORMWATER MANAGEMENT PRACTICES HANDBOOK

8 On or before January 1, 2016, the Secretary of Natural Resources shall
9 publish as a handbook a suite of practical and cost-effective best management
10 practices for the control of stormwater runoff and reduction of adverse water
11 quality effects from the construction, redevelopment, or expansion of
12 impervious surface that does not require a permit under 10 V.S.A. § 1264. The
13 best management practices shall address activities that control, mitigate, or
14 eliminate stormwater runoff to waters of the State. The stormwater
15 management practices shall be voluntary and shall not be mandatory.

16 * * * Water Quality Data Coordination * * *

17 Sec. 33. 10 V.S.A. § 1284 is added to read:

18 § 1284. WATER QUALITY DATA COORDINATION

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

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

3 The Clean Water Fund shall be used to:

4 (1) assist the State in complying with water quality requirements and
5 construction or implementation of water quality projects or programs; and

6 (2) provide funding to nonprofit organizations, regional associations, and
7 other entities for implementation and administration of community-based water
8 quality programs or projects.

9 § 1388. CLEAN WATER FUND

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

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

14 (2) the Fund shall consist of:

15 (A) Revenues dedicated for deposit into the Fund by the General
16 Assembly, including:

17 (i) five percent of the meals, rooms, and alcohol taxes levied
18 pursuant to chapter 225 of this title; and

19 (ii) those taxes imposed under 23 V.S.A. § 3106(a)(1)(A)(ii)

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

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1 Board. Gifts or donations submitted to the Fund shall be deductible from the
2 tax levied under 32 V.S.A. chapter 151.

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

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

8 (2) to provide funding to address water pollution identified as a critical
9 source of water quality pollution;

10 (3) to provide funding to address or repair conditions that increase the
11 risk of flooding or pose a threat to life or property; and

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

15 (c) In the first three years of its existence, the Clean Water Fund Board
16 shall prioritize under subsection (b) of this section recommendation of awards
17 or assistance to municipalities for municipal compliance with the water quality
18 requirements.

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

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1 § 1389. CLEAN WATER FUND BOARD

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

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

6 (1) The Secretary of Administration or designee.

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

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

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

11 (5) The Secretary of Transportation or designee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 § 1390. CLEAN WATER INVESTMENT REPORT

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

17 Sec. 35. 32 V.S.A. § 5811(21) is amended to read:

18 (21) “Taxable income” means federal taxable income determined
19 without regard to 26 U.S.C. § 168(k) and:

20 (A) Increased by the following items of income (to the extent such
21 income is excluded from federal adjusted gross income):

1 (i) interest income from non-Vermont state and local obligations;

2 (ii) dividends or other distributions from any fund to the extent

3 they are attributable to non-Vermont state or local obligations; and

4 (iii) the amount in excess of \$5,000.00 of State and local income

5 taxes deducted from federal adjusted gross income for the taxable year, but in

6 no case in an amount that will reduce total itemized deductions below the

7 standard deduction allowable to the taxpayer; and

8 (B) Decreased by the following items of income (to the extent such

9 income is included in federal adjusted gross income):

10 (i) income from United States government obligations;

11 (ii) with respect to adjusted net capital gain income as defined in

12 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend

13 income: either the first \$5,000.00 of such adjusted net capital gain income; or

14 40 percent of adjusted net capital gain income from the sale of assets held by

15 the taxpayer for more than three years, except not adjusted net capital gain

16 income from:

17 (I) the sale of any real estate or portion of real estate used by the

18 taxpayer as a primary or nonprimary residence; or

19 (II) the sale of depreciable personal property other than farm

20 property and standing timber; or stocks or bonds publicly traded or traded on

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1 an exchange, or any other financial instruments; regardless of whether sold by
2 an individual or business;

3 and provided that the total amount of decrease under this
4 subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income;

5 and

6 (iii) recapture of State and local income tax deductions not taken
7 against Vermont income tax; and

8 (iv) gifts or donations to special funds of the State.

9 Sec. 36. 32 V.S.A. § 9241 is amended to read:

10 § 9241. IMPOSITION OF TAX

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

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

17 ~~\$0.01-0.11~~ \$0.01

18 ~~0.12-0.22~~ 0.02

19 ~~0.23-0.33~~ 0.03

20 ~~0.34-0.44~~ 0.04

21 ~~0.45-0.55~~ 0.05

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1	0.56-0.66	0.06
2	0.67-0.77	0.07
3	0.78-0.88	0.08
4	0.89-1.00	0.09
5	<u>\$0.01-0.05</u>	<u>\$0.00</u>
6	<u>0.06-0.15</u>	<u>0.01</u>
7	<u>0.16-0.26</u>	<u>0.02</u>
8	<u>0.27-0.36</u>	<u>0.03</u>
9	<u>0.37-0.47</u>	<u>0.04</u>
10	<u>0.48-0.57</u>	<u>0.05</u>
11	<u>0.58-0.68</u>	<u>0.06</u>
12	<u>0.69-0.78</u>	<u>0.07</u>
13	<u>0.79-0.89</u>	<u>0.08</u>
14	<u>0.90-0.99</u>	<u>0.09</u>
15	(c) An operator shall collect a tax on each sale of alcoholic beverages at the	
16	rate of 40 <u>10.5</u> percent of each full dollar of the total charge and on each sale	
17	for less than one dollar and on each part of a dollar in excess of a full dollar in	
18	accordance with the following formula:	
19	\$.01-.14	\$.01
20	.15-.24	.02
21	.25-.34	.03

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1	.35-.44	.04
2	.45-.54	.05
3	.55-.64	.06
4	.65-.74	.07
5	.75-.84	.08
6	.85-.94	.09
7	.95-1.00	.10
8	<u>\$0.01-0.08</u>	<u>\$0.00</u>
9	<u>0.09-0.18</u>	<u>0.01</u>
10	<u>0.19-0.28</u>	<u>0.02</u>
11	<u>0.29-0.38</u>	<u>0.03</u>
12	<u>0.39-0.48</u>	<u>0.04</u>
13	<u>0.49-0.58</u>	<u>0.05</u>
14	<u>0.59-0.68</u>	<u>0.06</u>
15	<u>0.69-0.78</u>	<u>0.07</u>
16	<u>0.79-0.88</u>	<u>0.08</u>
17	<u>0.89-0.99</u>	<u>0.09</u>

18 Sec. 37. 32 V.S.A. § 9242(c) is amended to read:

19 (c) A tax of nine and one-half percent of the gross receipts from ~~meals and~~
20 occupancies, nine and one-half percent of the gross receipts from meals, and
21 10 and one-half percent of the gross receipts from alcoholic beverages,

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1 exclusive of taxes collected pursuant to section 9241 of this title, received from
2 occupancy rentals, taxable meals and alcoholic beverages by an operator, is
3 hereby levied and imposed and shall be paid to the State by the operator as
4 herein provided. Every person required to file a return under this chapter shall,
5 at the time of filing the return, pay the Commissioner the taxes imposed by this
6 chapter as well as all other monies collected by him or her under this chapter;
7 provided, however, that every person who collects the taxes on taxable meals
8 and alcoholic beverages according to the tax bracket schedules of section 9241
9 of this title shall be allowed to retain any amount lawfully collected by the
10 person in excess of the tax imposed by this chapter as compensation for the
11 keeping of prescribed records and the proper account and remitting of taxes.

12 Sec. 38. 32 V.S.A. § 435 is amended to read:

13 § 435. GENERAL FUND

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

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

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

20 (2) [Repealed.]

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

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1 (4) Corporate income and franchise taxes levied pursuant to chapter 151
2 of this title;

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

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

5 (7) ~~Meals and 95 percent of the meals, rooms, and alcohol~~ taxes levied
6 pursuant to chapter 225 of this title;

7 (8) [Repealed.]

8 (9) Revenues from the Racing Fund consistent with 31 V.S.A. § ~~611~~
9 609;

10 (10) 33 percent of the revenue from the property transfer taxes levied
11 pursuant to chapter 231 of this title and the revenue from the gains taxes levied
12 each year pursuant to chapter 236 of this title;

13 (11) 65 percent of the revenue from sales and use taxes levied pursuant
14 to chapter 233 of this title;

15 (12) All other revenues accruing to the State not otherwise required by
16 law to be deposited in any other designated fund or used for any other
17 designated purpose.

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

19 Sec. 39. SECRETARY OF ADMINISTRATION REPORT ON PER

20 PARCEL WATER QUALITY FEE

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1 (a) On or before January 15, 2016, the Secretary of Administration, after
2 consultation with the Department of Taxes, shall submit to the House
3 Committee on Fish, Wildlife and Water Resources, the Senate Committee on
4 Natural Resources and Energy, the House Committee on Agriculture and
5 Forest Products, the Senate Committee on Agriculture, the House Committee
6 on Ways and Means, and the Senate Committee on Finance a recommendation
7 for establishing a fee on parcels of property in the State for the purpose of
8 raising revenue to fund water quality improvement programs in the State. The
9 recommendation shall include:

10 (1) a tiered per parcel fee that provides for equitable apportionment
11 among all parcel owners, including owners of industrial property, commercial
12 property, residential property, or agricultural lands;

13 (2) an estimate of the amount of revenue to be generated from the
14 proposed per parcel fee;

15 (3) a summary of how assessment of the fee will be administered,
16 collected, and enforced; and

17 (4) a legislative proposal to implement the proposed per parcel fee
18 program.

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

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

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1 Sec. 42. 3 V.S.A. § 2822 is amended to read:

2 § 2822. BUDGET AND REPORT; POWERS

3 * * *

4 (i) The Secretary shall not process an application for which the applicable
5 fee has not been paid unless the Secretary specifies that the fee may be paid at
6 a different time or unless the person applying for the permit is exempt from the
7 permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons~~
8 ~~who are exempt under 32 V.S.A. § 710 are also exempt from the application~~
9 ~~fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I)~~
10 ~~and (II) of this section if they otherwise meet the requirements of 32 V.S.A.~~
11 ~~§ 710. Municipalities shall be exempt from the payment of fees under this~~
12 ~~section except for those fees prescribed in subdivisions (j)(1), (2), (7), (8), (14),~~
13 ~~and (15) of this section for which a municipality may recover its costs by~~
14 ~~charging a user fee to those who use the permitted services. Municipalities~~
15 ~~shall pay fees prescribed in subdivisions (j)(2), (10), (11), and (26), except that~~
16 ~~a municipality shall also be exempt from those fees for orphan stormwater~~
17 ~~systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this~~
18 ~~section when the municipality agrees to become an applicant or co-applicant~~
19 ~~for an orphan stormwater system under 10 V.S.A. § 1264e for which a~~
20 ~~municipality has assumed full legal responsibility under 10 V.S.A. § 1264.~~

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

4 * * *

5 (2) For discharge permits issued under 10 V.S.A. chapter 47 and orders
6 issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~
7 \$240.00 shall be paid at the time of application for a discharge permit in
8 addition to any application review fee and any annual operating fee, except for
9 permit applications under subdivisions (2)(A)(iii)(III) and (V) of this
10 subsection:

11 (A) Application review fee.

12 (i) Municipal, industrial,
13 noncontact cooling water, and
14 thermal discharges.

15 (I) Individual permit: original ~~\$0.0023~~ \$0.003 per gallon
16 application; amendment for design flow; minimum
17 increased flows; amendment ~~\$50.00~~ \$100.00 per
18 for change in treatment process; outfall; maximum
19 30,000.00 per application.

20 (II) Renewal, transfer, or minor ~~\$0.00~~ \$0.002 per gallon
21 amendment of individual permit; design flow; minimum

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- 1 treatment process;
- 2 (II) Individual operating permit \$1,400.00 per acre
- 3 or application to operate under impervious area;
- 4 general operating permit for minimum \$1,400.00
- 5 collected stormwater runoff which per application.
- 6 is discharged to Class A waters;
- 7 original application; amendment
- 8 for increased flows; amendment
- 9 for change in treatment process.
- 10 (III) Individual permit or
- 11 application to operate under
- 12 general permit for construction
- 13 activities; original application;
- 14 amendment for increased acreage.
- 15 (aa) Projects with low risk to ~~\$50.00~~ five acres or
- 16 waters of the State; ~~less: \$100.00 per project;~~
- 17 original application.
- 18 (bb) Projects with low risk to \$220.00 per project.
- 19 waters of the State; greater than
- 20 five acres:
- 21 (cc) Projects with moderate risk ~~\$360.00;~~ five acres

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1 to waters of the State; or less: \$480.00 per
2 project original
3 application.
4 ~~(cc) Projects that require an~~ ~~\$720.00 per project~~
5 ~~individual permit.~~ ~~original application.~~
6 (dd) Projects with moderate risk \$640.00.
7 to waters of the State; greater
8 than five acres:
9 (ee) Projects that require an \$1,200.00.
10 individual permit; ten acres
11 or less:
12 (ff) Projects that require an \$1,800.00.
13 individual permit; greater than
14 10 acres:
15 (IV) Individual permit or ~~\$220.00~~ \$440.00 per
16 application to operate under facility.
17 general permit for stormwater
18 runoff associated with industrial
19 activities with specified SIC
20 codes; original application;
21 amendment for change in activities;

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- 1 (V) Individual permit or ~~\$1,200.00~~ \$2,400.00
- 2 application to operate under per system.
- 3 general permit for stormwater
- 4 runoff associated with
- 5 municipal separate storm sewer
- 6 systems; original application; amendment
- 7 for change in activities.;
- 8 (VI) Individual operating permit or application to operate under
- 9 a general permit for a residually designated stormwater discharge original
- 10 application; amendment; for increased flows amendment; for change in
- 11 treatment process.
- 12 (aa) For discharges to Class B water; ~~\$430.00~~ \$860.00 per
- 13 acre of impervious area, minimum ~~\$220.00~~ \$280.00.
- 14 (bb) For discharges to Class A water; ~~\$1,400.00~~ \$1,700.00
- 15 per acre of impervious area, minimum ~~\$1,400.00~~ \$1,700.00.
- 16 (VII) Renewal, transfer, or ~~\$0.00~~.
- 17 minor amendment of individual
- 18 permit or approval under
- 19 general permit.;
- 20 (VIII) Application for coverage \$400.00 per application.
- 21 under the municipal roads

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1 stormwater general permit:

2 (IX) Application for coverage \$1,200.00.

3 under the State roads stormwater

4 general permit:

5 * * *

6 (B) Annual operating fee.

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

8 water and thermal discharges; design capacity. ~~\$150.00~~

9 ~~\$200.00~~ minimum;

10 maximum \$210,000.00.

11 (ii) Municipal; ~~\$0.003~~ per gallon of actual

12 ~~design~~ flows. ~~\$150.00~~

13 ~~\$200.00~~ minimum;

14 maximum \$12,500.00.

15 (iii) Pretreatment discharges; ~~\$0.0385~~ \$0.04 per gallon

16 design capacity. ~~\$150.00~~

17 ~~\$200.00~~ minimum;

18 maximum \$27,500.00.

19 (iv) Stormwater.

20 (I) Individual operating permit ~~\$255.00~~ \$310.00 per acre

21 or approval under general operating impervious area; ~~\$235.00~~

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1 permit for collected stormwater \$310.00 minimum.
2 runoff which is discharged to
3 class A waters:;
4 (II) Individual operating permit ~~\$80.00~~ \$160.00 per acre
5 or approval under general operating impervious area; ~~\$80.00~~
6 permit for collected stormwater \$160.00 minimum.
7 runoff which is discharged to
8 Class B waters:;
9 (III) Individual permit or ~~\$80.00~~ \$160.00
10 approval under general permit per facility.
11 for stormwater runoff from
12 industrial facilities with
13 specified SIC codes:;
14 (IV) Individual permit or ~~\$80.00~~ per system
15 application to operate under \$10.00 per acre of
16 general permit for stormwater impervious surface within
17 runoff associated with municipal the municipality; annually.
18 separate storm sewer systems:;
19 (V) Individual permit or approval under general permit for
20 residually designated stormwater discharges.

Gray highlighting = Flagged issue or change requested by SNRE Committee

1 (aa) For discharges to Class A water; ~~\$255.00~~ \$310.00 per
2 acre of impervious area, minimum ~~\$255.00~~ \$310.00.

3 (bb) For discharges to Class B water; ~~\$80.00~~ \$160.00 per
4 acre of impervious area, minimum ~~\$80.00~~ \$160.00.

5 (VI) Application to operate under a general permit for
6 stormwater runoff associated with municipal roads: \$2,000.00 per
7 authorization annually.

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

10 * * *

11 (11) For stream alteration and flood hazard area permits issued under
12 10 V.S.A. ~~chapter~~ chapters 41 and 32: ~~\$225.00 per application.~~

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

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

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

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

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

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1 application.

2 * * *

3 (26) For individual conditional use determinations, for individual
4 wetland permits, for general conditional use determinations issued under
5 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit,
6 an administrative processing fee assessed under subdivision (2) of this
7 subsection (j) and an application fee of:

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

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

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

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

1 except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10),
2 (j)(11), and (j)(26).

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

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

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

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1 (c) ~~The Secretary of Natural Resources shall establish a schedule for~~
2 ~~municipalities that requires compliance with this section at a rate that~~
3 ~~corresponds to the rate at which funds are provided under subsection 1625(e)~~
4 ~~of this title. To the extent that funds are not provided to municipalities eligible~~
5 ~~under that subsection, municipal compliance with this section shall not be~~
6 ~~required. [Repealed.]~~

7 Sec. 45. 10 V.S.A. § 1625 is amended to read:

8 § 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO
9 ABATE DRY WEATHER SEWAGE FLOWS

10 (a) When the Department finds that a proposed water pollution abatement
11 project is necessary to maintain water quality standards during dry weather
12 sewage flows, and that the proposed type, kind, quality, size, and estimated
13 cost, including operation cost and sewage disposal charges, of the project are
14 suitable for abatement of pollution, and the project or the prescribed project
15 phases are necessary to meet the intent of the water quality classifications
16 established by the Secretary or by statute under chapter 47 of this title, the
17 Department may award to municipalities a State assistance grant of up to
18 25 percent of the eligible project cost, provided that in no case shall the total of
19 the State and federal grants exceed 90 percent of the eligible project costs:

20 (1) except that the 90 percent limitation shall not apply when the
21 municipality provides, as their local share, federal funds allocated to them for

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1 the purpose of matching other federal grant programs having a matching
2 requirement; and

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

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

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

18 (d) The Department may award a State assistance grant of up to 50 percent
19 of the eligible costs of an approved pollution abatement project or a portion
20 thereof not eligible for federal financial assistance in a municipality that is
21 certified by the Secretary of Commerce and Community Development to be

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1 within the designated job development zone. To achieve the objectives of
2 chapter 29, subchapter 2 of this title, the eligibility and priority provisions of
3 this chapter do not apply to municipalities within a designated job development
4 zone.

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

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

14 Logging Jobs in Vermont * * *

15 Sec. 46. 10 V.S.A. § 2622 is amended to read:

16 § 2622. RULES; HARVESTING TIMBER; FORESTS; ACCEPTABLE
17 MANAGEMENT PRACTICES FOR MAINTAINING WATER
18 QUALITY

19 (a) Silvicultural practices. The ~~commissioner~~ Commissioner shall adopt
20 rules to establish methods by which the harvest and utilization of timber in
21 private and public ~~forest land~~ forestland will be consistent with continuous

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1 forest growth, including reforestation, will prevent wasteful and dangerous
2 forestry practices, will regulate heavy cutting, will encourage good forestry
3 management, will enable and assist landowners to practice good forestry
4 management, and will conserve the natural resources consistent with the
5 purposes and policies of this chapter, giving due consideration to the need to
6 assure continuous supplies of forest products and to the rights of the owner or
7 operator of the land. Such rules adopted under this subsection shall be
8 advisory, and not mandatory except that the rules adopted under section 2625
9 of this title for the regulation of heavy cutting shall be mandatory as shall other
10 rules specifically authorized to be mandatory.

11 (b) Acceptable management practices. On or before March 1, 2016, the
12 Commissioner shall revise by rule the acceptable management practices for
13 maintaining water quality on logging jobs in Vermont. The revised acceptable
14 management practices shall ensure that all logging operations, on both public
15 and private forestland, are designed to: prevent or minimize discharges of
16 sediment, petroleum products, and woody debris (logging slash) from entering
17 streams and other bodies of water; protect aquatic habitat and aquatic wildlife;
18 and prevent erosion and maintain natural water temperature. The purpose of
19 the acceptable management practices is to provide a guide for loggers,
20 foresters, and landowners to design logging operations to comply with the
21 Vermont Water Quality Standards and minimize the potential for a discharge

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1 from logging operations in Vermont in accordance with section 1259 of
2 this title.

3 Sec. 47. DEPARTMENT OF FORESTS, PARKS AND RECREATION
4 REPORT; ACCEPTABLE MANAGEMENT PRACTICES;
5 MAPLE SYRUP PRODUCTION UNDER USE VALUE
6 APPRAISAL

7 On or before March 1, 2016, the Commissioner of Forests, Parks and
8 Recreation shall submit to the House Committee on Fish, Wildlife and Water
9 Resources, the Senate Committee on Natural Resources and Energy, and the
10 House Committee on Natural Resources and Energy a recommendation and
11 supporting basis as to whether:

12 (1) the acceptable management practices for maintaining water quality
13 on logging jobs in Vermont should be mandatory for all logging operations on
14 public and private forestland; and

15 (2) whether maple syrup production on forestland should be required to
16 enroll in the use value appraisal program under 32 V.S.A. chapter 124 as
17 managed forestland and not agricultural land.

18 Sec. 48. 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~~ required agricultural ~~or silvicultural~~ practices, as ~~such are~~
21 ~~defined~~ adopted by rule by the ~~secretary of agriculture, food and markets and~~

1 ~~the commissioner of forests, parks and recreation, respectively, after an~~
2 ~~opportunity for a public hearing~~ Secretary of Agriculture, Food and Markets,
3 or the acceptable management practices for maintaining water quality on
4 logging jobs in Vermont, as adopted by the Commissioner of Forests, Parks
5 and Recreation; nor shall these provisions regulate discharges from
6 concentrated animal feeding operations that require a permit under section
7 1263 of this title; nor shall those provisions prohibit stormwater runoff or the
8 discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

9 Sec. 49. 24 V.S.A. § 4413(d) is amended to read:

10 (d) A bylaw under this chapter shall not regulate ~~accepted~~ required
11 agricultural ~~and silvicultural~~ practices, including the construction of farm
12 structures, as those practices are defined by the ~~secretary of agriculture, food~~
13 ~~and markets~~ Secretary of Agriculture, Food and Markets or ~~the commissioner~~
14 ~~of forests, parks and recreation~~ acceptable management practices for
15 maintaining water quality on logging jobs in Vermont as adopted by the
16 Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A.
17 ~~§§ 1021(f) and 1259(f)~~ § 2622 and 6 V.S.A. § 4810.

18 * * *

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1 * * * Eligibility for Ecosystem Restoration Program Assistance * * *

2 Sec. 50. ECOSYSTEM RESTORATION PROGRAM; CLEAN WATER
3 FUND; ELIGIBILITY FOR FINANCIAL ASSISTANCE

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

12 * * * Sunset of Rooms, Meals, and Alcohol Tax * * *

13 Sec. 51. 32 V.S.A. § 9241 is amended to read:

14 § 9241. IMPOSITION OF TAX

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

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

21 \$0.01-0.05 \$0.00

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1	0.06-0.15	0.01
2	0.16-0.26	0.02
3	0.27-0.36	0.03
4	0.37-0.47	0.04
5	0.48-0.57	0.05
6	0.58-0.68	0.06
7	0.69-0.78	0.07
8	0.79-0.89	0.08
9	0.90-0.99	0.09
10	<u>\$0.01-0.11</u>	<u>\$0.01</u>
11	<u>0.12-0.22</u>	<u>0.02</u>
12	<u>0.23-0.33</u>	<u>0.03</u>
13	<u>0.34-0.44</u>	<u>0.04</u>
14	<u>0.45-0.55</u>	<u>0.05</u>
15	<u>0.56-0.66</u>	<u>0.06</u>
16	<u>0.67-0.77</u>	<u>0.07</u>
17	<u>0.78-0.88</u>	<u>0.08</u>
18	<u>0.89-1.00</u>	<u>0.09</u>

19 (c) An operator shall collect a tax on each sale of alcoholic beverages at the
20 rate of ~~40.5~~ 10 percent of each full dollar of the total charge and on each sale

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1	for less than one dollar and on each part of a dollar in excess of a full dollar in	
2	accordance with the following formula:	
3	\$0.01-0.08	\$0.00
4	0.09-0.18	0.01
5	0.19-0.28	0.02
6	0.29-0.38	0.03
7	0.39-0.48	0.04
8	0.49-0.58	0.05
9	0.59-0.68	0.06
10	0.69-0.78	0.07
11	0.79-0.88	0.08
12	0.89-0.99	0.09
13	<u>\$0.01-0.14</u>	<u>\$0.01</u>
14	<u>0.15-0.24</u>	<u>0.02</u>
15	<u>0.25-0.34</u>	<u>0.03</u>
16	<u>0.35-0.44</u>	<u>0.04</u>
17	<u>0.45-0.54</u>	<u>0.05</u>
18	<u>0.55-0.64</u>	<u>0.06</u>
19	<u>0.65-0.74</u>	<u>0.07</u>
20	<u>0.75-0.84</u>	<u>0.08</u>
21	<u>0.85-0.94</u>	<u>0.09</u>

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1 0.95-1.00 0.10

2 Sec. 52. 32 V.S.A. § 9242(c) is amended to read:

3 (c) A tax of nine ~~and one-half~~ percent of the gross receipts from ~~meals and~~
4 occupancies, nine ~~and one-half~~ percent of the gross receipts from meals, and
5 10 ~~and one-half~~ percent of the gross receipts from alcoholic beverages,
6 exclusive of taxes collected pursuant to section 9241 of this title, received from
7 occupancy rentals, taxable meals and alcoholic beverages by an operator, is
8 hereby levied and imposed and shall be paid to the State by the operator as
9 herein provided. Every person required to file a return under this chapter shall,
10 at the time of filing the return, pay the Commissioner the taxes imposed by this
11 chapter as well as all other monies collected by him or her under this chapter;
12 provided, however, that every person who collects the taxes on taxable meals
13 and alcoholic beverages according to the tax bracket schedules of section 9241
14 of this title shall be allowed to retain any amount lawfully collected by the
15 person in excess of the tax imposed by this chapter as compensation for the
16 keeping of prescribed records and the proper account and remitting of taxes.

17 Sec. 53. 32 V.S.A. § 435 is amended to read:

18 § 435. GENERAL FUND

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

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1 (b) The General Fund shall be composed of revenues from the following

2 sources:

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

4 (2) [Repealed.]

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

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

7 of this title;

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

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

10 (7) ~~95 percent of the meals~~ Meals, rooms, and alcohol taxes levied
11 pursuant to chapter 225 of this title;

12 (8) [Repealed.]

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

14 609;

15 (10) 33 percent of the revenue from the property transfer taxes levied

16 pursuant to chapter 231 of this title and the revenue from the gains taxes levied

17 each year pursuant to chapter 236 of this title;

18 (11) 65 percent of the revenue from sales and use taxes levied pursuant

19 to chapter 233 of this title;

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE