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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;

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; and

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;

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

18 (A) Aquatic life is only fully supported in 59 percent of the State's
19 inland lakes, and

20 (B) Swimming is only fully supported on 76 percent of the State's
21 inland lakes.

1 (5) Without State action to improve the quality of State waters and
2 prevent further degradation of the quality of existing waters, the State of
3 Vermont will be at risk of losing the valuable, if not necessary functions and
4 uses that the State's waters provide;

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

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

12 (A) fully implement the antidegradation implementation policy in the
13 Vermont Water Quality Standards;

14 (B) Enhance, implement, and enforce regulatory requirements for
15 water quality, and

16 (C) Sufficiently and sustainably finance all water quality programs
17 within the State.

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

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

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

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

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

10 (6) engage all municipalities, agricultural operations, businesses, and
11 other interested parties as part of the State’s efforts to improve the quality of
12 the waters of the State; and

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

16 * * * Agricultural Water Quality;

17 Definitions * * *

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

19 § 4802. ~~DEFINITION~~ DEFINITIONS

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

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

2 (2) “Domestic fowl” means laying-hens, broilers, ducks, or turkeys.

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

4 § 6001(22).

5 (4) “Healthy soil” means soil that has a well-developed, porous
6 structure, is chemically balanced, supports diverse microbial communities, and
7 has abundant organic matter.

8 (5) “Livestock” means cattle, mature cow/calf pairs, youngstock,
9 heifers, bulls, swine, sheep, goats, or horses

10 (6) “Manure” means livestock waste in solid or liquid form that may
11 also contain bedding, spilled feed, water, or soil.

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

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

19 (9) “Waste” or “agricultural waste” means material originating or
20 emanating from a farm that is determined by the Secretary or the Secretary of
21 Natural Resources to be harmful to the waters of the State, including:

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

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

* * * Agricultural Water Quality;

Small Farm Certification and Inspection * * *

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

11 Subchapter 5a. Small Farm Certification

12 § 4871. SMALL FARM CERTIFICATION

13 (a) Small farm definition. As used in this section, “small farm” means a
 14 parcel or parcels of land:

15 (1) on which 10 or more acres are used for farming;

16 (2) that houses no more than the number of animals specified under
 17 section 4857 of this title; and

18 (3)(A) that houses 25 or more livestock or 200 or more domestic fowl;

19 or

20 (B) that is used for the preparation, tilling fertilization, planting,

21 protection, irrigation, and harvesting of crops for sale.

1 (b) Required small farm certification. A person who owns or operates a
2 small farm shall, on a form provided by the Secretary, certify compliance with
3 the required agricultural practices. The Secretary of Agriculture, Food and
4 Markets shall establish the requirements and manner of certification of
5 compliance with the required agricultural practices, provided that the Secretary
6 shall require an owner or operator of a farm to submit an annual certification of
7 compliance with the required agricultural practices.

8 (c) Certification due to water quality threat. The Secretary may require any
9 person who owns or operates a farm to submit a small farm certification under
10 this section if the person is not required to obtain a permit or submit a
11 certification under this chapter and the Secretary determines that the farm
12 poses a threat of discharge to a water of the State or presents a threat of
13 contamination to groundwater. The Secretary may waive a small farm
14 certification required under this subsection upon a determination that the farm
15 no longer poses a threat of discharge to a water of the State or no longer
16 presents a threat of contamination to groundwater.

17 (d) Rulemaking; small farm certification. On or before January 1, 2016,
18 the Secretary of Agriculture, Food and Markets shall adopt by rule
19 requirements for a small farm certification of compliance with the required
20 agricultural practices. The rules required by this subsection shall be adopted as
21 part of the required agricultural practices under section 4810 of this title.

1 (e) Small farm inspection. The Secretary may inspect a small farm in the
2 State at any time, but no less frequently than once every five years, for the
3 purposes of assessing compliance by the small farm with the required
4 agricultural practices and determining consistency with a certification of
5 compliance submitted by the person who owns or operates the small farm. The
6 Secretary may prioritize inspections of small farms in the State based on
7 identified water quality issues posed by a small farm.

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

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

19 (2) Notwithstanding the priority system established under section 4823
20 of this title, the Secretary annually shall establish a priority ranking system for
21 small farms according to the water quality benefit associated with the capital,

1 structural, or technical improvements identified as needed by the Secretary
2 during an inspection of the farm.

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

8 (h) Fees. A person required to submit a certification under this section
9 shall submit an annual operating fee of \$250.00 to the Secretary. The fees
10 collected under this section shall be deposited in the Agricultural Water
11 Quality Special Fund under section 4803 of this title.

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

13 § 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

14 (a) On or before July 1, 2016, the Secretary of Agriculture, Food, and
15 Markets shall amend by rule the required agricultural practices in order to
16 improve water quality in the State, assure practices on all farms eliminate
17 adverse impacts to water quality, and implement the small farm certification
18 program required by section 4871 of this title. At a minimum, the amendments
19 to the required agricultural practices shall:

20 (1) Specify those farms that:

- 1 (A) are required to comply with the small certification requirements
2 under section 4871 of this title due to the potential impact of the farm or type
3 of farm on water quality as a result of livestock managed on the farm,
4 agricultural inputs used by the farm, or tillage practices on the farm; and
5 (B) shall be subject to the required agricultural practices, but shall not
6 be required to comply with small farm certification requirements under section
7 4871 of this title.
8 (2)(A) Prohibit a farm from stacking manure, storing fertilizer, or
9 storing other nutrients on the farm:
10 (i) in a manner and location that presents a threat of discharge to a
11 water of the State or presents a threat of contamination to groundwater; or
12 (ii) on lands in a floodway or otherwise subject to annual flooding.
13 (B) In no case shall manure stacking sites, fertilizer storage, or other
14 nutrient storage be located within 200 feet of a private well or within 200 feet
15 of a water of the State.
16 (3) Require the construction and management of barnyards, waste
17 management systems, animal holding areas, and production areas in a manner
18 to prevent runoff of waste to a surface water, to groundwater, or across
19 property boundaries.

1 (4) Establish standards for nutrient management on farms, including
2 required nutrient management planning on all farms that manage agricultural
3 wastes.

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

9 (6)(A) Require a farm to comply with standards established by the
10 Secretary for maintaining a vegetative buffer zone of perennial vegetation
11 between annual croplands and the top of the bank of an adjoining water of the
12 State. At a minimum the vegetative buffer standards established by the
13 Secretary shall prohibit the application of manure on the farm within 25 feet of
14 the top of the bank of an adjoining water of the State or within 10 feet of a
15 ditch that is not a surface water under State law and that is not a water of the
16 United States under federal law.

17 (B) The Secretary shall establish standards for site-specific vegetative
18 buffers that adequately address water quality needs.

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

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

5 (9) Require the exclusion of livestock from the waters of the State to
6 prevent erosion and adverse water quality impacts, except to allow for
7 livestock crossing.

8 (10) Establish standards for improving and managing healthy soils in
9 order to improve the capacity of soil to retain water, improve flood resiliency,
10 reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent
11 agricultural stormwater runoff.

12 (11) Establish standards for soil conservation practices such as cover
13 cropping.

14 (12) Allow for alternative techniques or practices, approved by the
15 Secretary, for compliance by an owner or operator of a farm when the owner or
16 operator cannot comply with the requirements of the required agricultural
17 practices due to site-specific conditions. Approved alternative techniques or
18 practices shall meet State requirements to reduce adverse impacts to water
19 quality.

20 (b) On or before January 15, 2018, the Secretary of Agriculture, Food and
21 Markets shall amend by rule the required agricultural practices in order to

1 include requirements for reducing nutrient contribution to waters of the State
2 from subsurface tile drainage. Upon adoption of requirements for subsurface
3 tile drainage, the Secretary may require an existing subsurface tile drain to
4 comply with the requirements of the RAPs for subsurface tile drainage upon a
5 determination that compliance is necessary to reduce adverse impacts to water
6 quality from the subsurface tile drain.

7 **Sec. 5. REPORT ON MANAGEMENT OF SUBSURFACE TILE**

8 **DRAINAGE**

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

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

7 * * * Agricultural Water Quality; Permit Fees * * *

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

9 § 4803. AGRICULTURAL WATER QUALITY SPECIAL FUND

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

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

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

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

2 § 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

3 (a) No person shall, without a permit from the ~~secretary~~ Secretary,
4 construct a new barn, or expand an existing barn, designed to house more than
5 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves,
6 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55
7 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens
8 or broilers with a liquid manure handling system, 82,000 laying hens without a
9 liquid manure handling system, 125,000 chickens other than laying hens
10 without a liquid manure handling system, 5,000 ducks with a liquid manure
11 handling system, or 30,000 ducks without a liquid manure handling system.
12 No permit shall be required to replace an existing barn in use for livestock or
13 domestic fowl production at its existing capacity. The ~~secretary of agriculture,~~
14 ~~food and markets~~ Secretary of Agriculture, Food and Markets, in consultation
15 with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall
16 review any application for a permit under this section with regard to water
17 quality impacts and, prior to approval of a permit under this subsection, shall
18 issue a written determination regarding whether the applicant has established
19 that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant
20 to the federal regulations for concentrated animal feeding operations. If upon
21 review of an application for a permit under this subsection, the ~~secretary of~~

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1 ~~agriculture, food and markets~~ Secretary of Agriculture, Food and Markets
 2 determines that the permit applicant may be discharging to waters of the ~~state~~
 3 State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
 4 Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural
 5 Resources shall respond to the discharge in accordance with the memorandum
 6 of understanding regarding concentrated animal feeding operations under
 7 subsection ~~4810(b)~~ 4810 of this title. The ~~secretary of natural resources~~
 8 Secretary of Natural Resources may require a large farm to obtain a permit
 9 under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal
 10 feeding operations.

11 * * *

12 (h) The Secretary may inspect a farm permitted under this section at any
 13 time, but no less frequently than once per year.

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

18 Sec. 8. 6 V.S.A. § 4850 is amended to read:

19 § 4850. DEFINITIONS

20 For purposes of this subchapter:

1 (1) “Domestic fowl” ~~means laying hens, broilers, ducks, and turkeys~~
 2 shall have the same meaning as in section 4802 of this title, provided that the
 3 Secretary may deem other types of domestic animals as domestic fowl for the
 4 purposes of this subchapter.

5 (2) “Livestock” ~~means cattle, swine, sheep, or horses~~ shall have the
 6 same meaning as in section 4802 of this title, provided that the Secretary may
 7 deem other types of domestic animals as livestock for the purposes of this
 8 subchapter.

9 Sec. 9. 6 V.S.A. § 4858 is amended to read:

10 § 4858. ~~ANIMAL WASTE PERMITS~~ MEDIUM FARM OPERATION

11 PERMITS

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

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

21 * * *

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1 (2) The rules adopted under this section shall also address permit
2 administration, public notice and hearing, permit enforcement, permit
3 transition, revocation, and appeals consistent with provisions of sections 4859,
4 ~~4860~~, and 4861 of this title and subchapter 10 of this chapter.

5 (3) Each general permit issued pursuant to this section shall have a term
6 of no more than five years. Prior to the expiration of each general permit, the
7 ~~secretary~~ Secretary shall review the terms and conditions of the general permit
8 and may issue subsequent general permits with the same or different conditions
9 as necessary to carry out the purposes of this subchapter. Each general permit
10 shall include provisions that require public notice of the fact that a medium
11 farm has sought coverage under a general permit adopted pursuant to this
12 section. Each general permit shall provide a process by which interested
13 persons can obtain detailed information about the nature and extent of the
14 activity proposed to receive coverage under the general permit. The Secretary
15 may inspect each farm seeking coverage under the general permit at any time,
16 but no less frequently than once every three years.

17 (c)(1) Medium farm general permit. The owner or operator of a medium
18 farm seeking coverage under a general permit adopted pursuant to this section
19 shall certify to the ~~secretary~~ Secretary within a period specified in the permit,
20 and in a manner specified by the ~~secretary~~ Secretary, that the medium farm
21 does comply with permit requirements regarding an adequately sized and

1 designed manure management system to accommodate the wastes generated
2 and a nutrient management plan to dispose of wastes in accordance with
3 ~~accepted~~ required agricultural practices adopted under this chapter. Any
4 certification or notice of intent to comply submitted under this subdivision
5 shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of
6 Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~
7 Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary~~
8 ~~of natural resources~~ Secretary of Natural Resources, shall review any
9 certification or notice of intent to comply submitted under this subdivision
10 with regard to the water quality impacts of the medium farm for which the
11 owner or operator is seeking coverage, and, within 18 months of receiving the
12 certification or notice of intent to comply, shall verify whether the owner or
13 operator of the medium farm has established that there will be no unpermitted
14 discharge to waters of the ~~state~~ State pursuant to the federal regulations for
15 concentrated animal feeding operations. If upon review of a medium farm
16 granted coverage under the general permit adopted pursuant to this subsection,
17 the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
18 and Markets determines that the permit applicant may be discharging to waters
19 of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of
20 Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary
21 of Natural Resources shall respond to the discharge in accordance with the

1 memorandum of understanding regarding concentrated animal feeding
2 operations under ~~subsection 4810(b)~~ section 4810 of this title.

3 * * *

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

8 Sec. 10. 6 V.S.A. § 4857(4) and (5) are amended to read:

9 (4) "Domestic fowl" ~~means laying hens, broilers, ducks, and turkeys~~
10 shall have the same meaning as as in section 4802 of this title, provided that
11 the Secretary may deem other types of domestic animals as domestic fowl for
12 the purposes of this subchapter.

13 (5) "Livestock" ~~means cattle, swine, sheep, and horses~~ shall have the
14 same meaning as in section 4802 of this title, provided that the Secretary may
15 deem other types of domestic animals as livestock for the purposes of this
16 subchapter.

17 Sec. 11. 6 V.S.A. § 324 is amended to read:

18 § 324. REGISTRATION AND FEES

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

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

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

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

1 addition to the registration fee required by subsection (b) of this section, shall
2 accompany the application for registration of each product upon which a
3 withdrawal from distribution order has been placed for reason of
4 nonregistration, and must be received before removal of the withdrawal from
5 distribution order.

6 Sec. 12. 6 V.S.A. § 328 is amended to read:

7 § 328. TONNAGE REPORTING

8 (a) Every person who registers a commercial feed pursuant to the
9 provisions of this chapter shall report to the ~~agency of agriculture, food and~~
10 ~~markets~~ Agency of Agriculture, Food and Markets annually the total amount of
11 combined feed which is distributed within the ~~state~~ State and which is intended
12 for use within the ~~state~~ State. The report shall be made on forms and in a
13 manner to be prescribed ~~by rules~~ by the ~~secretary~~ Secretary for calendar years
14 ~~1986 2016~~ and ~~1987 2017~~.

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

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1 Sec. 13. 6 V.S.A. § 366 is amended to read:

2 § 366. TONNAGE FEES

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

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

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

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

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

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

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

7 (h) There shall be paid annually to the Secretary for all fertilizers
8 distributed to a nonregistrant consumer in this State an annual fee at a rate of
9 \$15.00 per ton for the purpose of supporting agricultural water quality
10 programs in Vermont.

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

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

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

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

5 (5) All fees collected under this subsection shall be deposited in the
6 deposited in the Agricultural Water Quality Special Fund created under section
7 4803 of this title.

8 Sec. 14. 6 V.S.A. § 918 is amended to read:

9 § 918. REGISTRATION

10 (a) Every economic poison which is distributed, sold, or offered for sale
11 within this State or delivered for transportation or transported in intrastate
12 commerce or between points within this State through any point outside this
13 State shall be registered in the Office of the Secretary, and such registration
14 shall be renewed annually; provided, that products which have the same
15 formula, are manufactured by the same person, the labeling of which contains
16 the same claims, and the labels of which bear a designation identifying the
17 product as the same economic poison may be registered as a single economic
18 poison; and additional names and labels shall be added by supplement
19 statements during the current period of registration. It is further provided that
20 any economic poison imported into this State, which is subject to the
21 provisions of any federal act providing for the registration of economic poisons

1 and which has been duly registered under the provisions of this chapter, may,
2 in the discretion of the Secretary, be exempted from registration under this
3 chapter, when sold or distributed in the unbroken immediate container in
4 which it was originally shipped. The registrant shall file with the Secretary a
5 statement including:

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

8 (2) The name of the economic poison.

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

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

16 (b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each
17 product registered, and \$110.00 of that amount shall be deposited in the special
18 fund created in section 929 of this title, of which \$5.00 from each product
19 registration shall be used for an educational program related to the proper
20 purchase, application, and disposal of household pesticides, and \$5.00 from
21 each product registration shall be used to collect and dispose of obsolete and

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1 unwanted pesticides. Of the registration fees collected under this subsection,
 2 \$15.00 of the amount collected shall be deposited in the Agricultural Water
 3 Quality Special Fund created under section 4803 of this title. The annual
 4 registration year shall be from December 1 to November 30 of the following
 5 year.

* * *

7 * * * Agricultural Water Quality; Required Agricultural Practices; Best
 8 Management Practices * * *

9 Sec. 15. 6 V.S.A. § 4810 is amended to read:

10 § 4810. AUTHORITY; COOPERATION; COORDINATION

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

20 ~~(1)(b)~~ Required Agricultural Practices. “~~Accepted Required~~
 21 Agricultural Practices” ~~(AAPs)~~ (RAPs) shall be management standards to be

1 followed ~~in conducting agricultural activities~~ by all persons engaged in
2 farming in this ~~state~~ State. These standards shall address activities which have
3 a potential for causing agricultural pollutants to enter the groundwater and
4 waters of the ~~state~~ State, including dairy and other livestock operations plus all
5 forms of crop and nursery operations and on-farm or agricultural fairground,
6 registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and
7 processing activities. The ~~AAPs~~ RAPs shall include, as well as promote and
8 encourage, practices for farmers in preventing agricultural pollutants from
9 entering the groundwater and waters of the ~~state~~ State when engaged in, ~~but~~
10 ~~not limited to~~, animal waste management and disposal, soil amendment
11 applications, plant fertilization, and pest and weed control. Persons engaged in
12 farming, ~~as defined in 10 V.S.A. § 6001~~, who ~~follow~~ are in compliance with
13 these practices shall be presumed ~~to be in compliance with water quality~~
14 ~~standards~~ to not have a discharge of agricultural pollutants to waters of the
15 State. ~~AAPs~~ RAPs shall be designed to protect water quality and shall be
16 practical and ~~cost effective~~ cost-effective to implement, as determined by the
17 Secretary. Where the Secretary determines, after inspection of a farm, that a
18 person engaged in farming is complying with the RAPs but there still exists the
19 potential for agricultural pollutants to enter the waters of the State, the
20 Secretary shall require the person to implement additional, site-specific on
21 farm conservation practices designed to prevent agricultural pollutants from

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1 entering the waters of the State. When requiring implementation of a
2 conservation practice under this subsection, the Secretary shall inform the
3 person engaged in farming of the resources available to assist the person in
4 implementing the conservation practice and complying with the requirements
5 of this chapter. The AAPs RAPs for groundwater shall include a process under
6 which the ~~agency~~ Agency shall receive, investigate, and respond to a complaint
7 that a farm has contaminated the drinking water or groundwater of a property
8 owner. A farmer may petition the Secretary to reduce the size of a perennial
9 buffer or change the perennial buffer type based on site-specific conditions.

10 ~~(2)(c) Best Management Practices. “Best Management Practices” (BMPs)~~
11 ~~may be required by the secretary on a case by case basis. Before requiring~~
12 ~~BMPs, the secretary shall determine that sufficient financial assistance is~~
13 ~~available to assist farmers in achieving compliance with applicable BMPs.~~
14 Best management practices (BMPs) are site-specific on-farm conservation
15 practices implemented in order to address the potential for agricultural
16 pollutants to enter the waters of the State. The Secretary may require any
17 person engaged in farming to implement a BMP. When requiring
18 implementation of a BMP, the Secretary shall inform a farmer of financial
19 resources available from State or federal sources, private foundations, public
20 charities, or other source, including funding from the Clean Water Fund
21 established under 10 V.S.A. § 1387, to assist the person in implementing

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1 BMPs and complying with the requirements of this chapter. BMPs shall be
2 practical and cost effective to implement, as determined by the Secretary, and
3 shall be designed to achieve compliance with the requirements of this chapter.
4 The Secretary may require soil monitoring or innovative manure management
5 as a BMP under this subsection. Soil monitoring or innovative manure
6 management implemented as a BMP shall be eligible for State assistance under
7 section 2822 of this title. If a perennial buffer of trees or other woody
8 vegetation is required as a BMP, the Secretary shall pay the farmer for a first
9 priority easement on the land on which the buffer is located.

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

1 the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources
2 shall also develop a memorandum of understanding according to the public
3 notice and comment process of 10 V.S.A. § 1259(i) regarding the
4 implementation of the federal concentrated animal feeding operation program
5 and the relationship between the requirements of the federal program and the
6 ~~state~~ State agricultural water quality requirements for large, medium, and small
7 farms under this chapter ~~215 of this title~~. The memorandum of understanding
8 shall describe program administration, permit issuance, an appellate process,
9 and enforcement authority and implementation. The memorandum of
10 understanding shall be consistent with the federal National Pollutant Discharge
11 Elimination System permit regulations for discharges from concentrated
12 animal feeding operations. The allocation of duties under this chapter between
13 the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
14 and Markets and the ~~secretary of natural resources~~ Secretary of Natural
15 Resources shall be consistent with the ~~secretary's~~ Secretary's duties,
16 established under the provisions of 10 V.S.A. § 1258(b), to comply with Public
17 Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural
18 Resources shall be the ~~state~~ State lead person in applying for federal funds
19 under Public Law 92-500, but shall consult with the ~~secretary of agriculture,~~
20 ~~food and markets~~ Secretary of Agriculture, Food and Markets during the
21 process. The agricultural non-point source program may compete with other

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1 programs for competitive watershed projects funded from federal funds. The
2 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
3 Markets shall be represented in reviewing these projects for funding. Actions
4 by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
5 Food and Markets under this chapter concerning agricultural non-point source
6 pollution shall be consistent with the water quality standards and water
7 pollution control requirements of 10 V.S.A. chapter 47 of Title 10 and the
8 federal Clean Water Act as amended. In addition, the ~~secretary of agriculture,~~
9 ~~food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate
10 with the ~~secretary of natural resources~~ Secretary of Natural Resources in
11 implementing and enforcing programs, plans, and practices developed for the
12 proper management of composting facilities when those facilities are located
13 on a farm. On or before January 15, 2016, the Secretary of Agriculture, Food
14 and Markets and the Secretary of Natural Resources shall each develop three
15 separate measures of the performance of the agencies under the memorandum
16 of understanding required by this subsection. Beginning January 15, 2017, and
17 annually thereafter, the Secretary of Agriculture, Food and Markets and the
18 Secretary of Natural Resources shall submit separate reports to the Senate
19 Committee on Agriculture, the House Committee on Agriculture and Forest
20 products, the Senate Committee on Natural Resources and Energy, and the
21 House Committee on Fish, Wildlife and Water Resources regarding the

1 success of each agency in meeting the performance measures for the
2 memorandum of understanding.

3 **Sec. 16. LEGISLATIVE COUNCIL STATUTORY REVISION**

4 **AUTHORITY; REQUIRED AGRICULTURAL PRACTICES**

5 The Office of Legislative Council, in its statutory revision capacity, is
6 directed to make amendments to the cumulative supplements of the Vermont
7 Statutes Annotated to change the terms “accepted agricultural practices” to
8 “required agricultural practices” and “AAPs” to “RAP” where appropriate.
9 These changes shall also be made when new legislation is proposed or when
10 there is a republication of the Vermont Statutes Annotated.

11 Sec. 17. 6 V.S.A. § 4813 is amended to read:

12 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~

13 ~~RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

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

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

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

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

21 * * * Agricultural Water Quality; Training * * *

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

2 Subchapter 8. Agricultural Water Quality Training

3 § 4981. AGRICULTURAL WATER QUALITY TRAINING

4 (a) On or before July 1, 2016, as part of the revisions of the required
5 agricultural practices, the Secretary of Agriculture, Food and Markets shall
6 adopt by rule requirements for training classes or programs for owners or
7 operators of small farms, medium farms, or large farms certified or permitted
8 under this chapter regarding:

9 (1) the prevention of discharges, as that term is defined in 10 V.S.A.

10 § 1251(3); and

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

13 (b) Any training required under this section shall address:

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

16 (2) the management practices and technical and financial resources
17 available to assist in compliance with statutory or regulatory agricultural
18 requirements;

19 (3) the land application of manure or nutrients, methods or techniques to
20 minimize the runoff of land-applied manure or nutrients to waters of the State;

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1 and identification of weather or soil conditions that increase the risk of runoff
2 of land-applied manure or nutrients to waters of the State; and

3 (4) standards required for nutrient management, including nutrient
4 management planning.

5 (c) The Secretary shall include the training required by this section as a
6 condition of a large farm permit, medium farm permit, or small farm
7 certification required under this chapter. The Secretary may phase in training
8 requirements under this section based on farm size, permit or certification
9 category, or available staffing. On or before January 1, 2017 the Secretary
10 shall establish a schedule by which all owners or operators of small farms,
11 medium farms, or large farms shall complete the training required by this
12 section.

13 (d) The Secretary may approve or authorize the training required by this
14 section to be conducted by other entities, including the University of Vermont
15 Extension Service and the natural resources conservation districts.

16 (e) The Secretary shall not charge the owner or operator of a large,
17 medium, or small farm for the training required by this section. The Secretary
18 shall pay for the training required under this section from funds available to the
19 Agency of Agriculture, Food and Markets for water quality initiatives.

20 * * * Agricultural Water Quality;

21 Certification of Custom Applicators * * *

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

2 Subchapter 9. Certification of Custom Applicators of Manure or Nutrients

3 § 4987. DEFINITIONS

4 As used in this subchapter, “custom applicator” means a person engaged in
5 the business of applying manure or nutrients to land and who charges or
6 collects other consideration for the service. “Custom applicator” shall include
7 employees of a person engaged in the business of applying manure or
8 nutrients to land, when the employees apply manure or nutrients to land.

9 § 4988. CERTIFICATION OF CUSTOM APPLICATOR

10 (a) On or before July 1, 2016, as part of the revision of the required
11 agricultural practices, the Secretary of Agriculture, Food and Markets shall
12 adopt by rule a process by which a custom applicator shall be certified to
13 operate within the State. The certification process shall require a custom
14 applicator to complete eight hours of training over each five-year period
15 regarding:

16 (1) application methods or techniques to minimize the runoff of
17 land-applied manure or nutrients to waters of the State; and

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

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

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1 (c) A custom applicator certified under this section shall train seasonal
2 employees in methods or techniques to minimize runoff to surface waters and
3 to identify weather or soil conditions that increase the risk of runoff. A custom
4 applicator that trains a seasonal employee under this subsection shall be liable
5 for damages done and liabilities incurred by a seasonal employee who
6 improperly applies manure or nutrients.

7 (d) The requirements of this section shall not apply to an owner or operator
8 of a farm applying manure or nutrients to a field that he or she owns or
9 controls, provided that the owner or operator has completed the agricultural
10 water quality training required under section 4981 of this title.

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

12 Sec. 20. 6 V.S.A. chapter 215, subchapter 10 is added to read:

13 Subchapter 10. Enforcement

14 § 4991. PURPOSE

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

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- 1 (1) issuing a corrective action order under section 4992 of this title;
- 2 (2) issuing a cease and desist order under section 4993 of this title;
- 3 (3) issuing an emergency order under section 4993 of this title;
- 4 (4) revoking or conditioning coverage under a permit or certification
5 under section 4994 of this title;
- 6 (5) bringing a civil enforcement action under section 4995 of this title;
- 7 (6) referring the violation to the Secretary of Natural Resources for
8 enforcement under 10 V.S.A. chapter 201; or
- 9 (7) pursuing other action, such as consulting with a farmer, within the
10 authority of the Secretary to assure discontinuance of the violation and
11 remediation of any harm caused by the violation.

12 § 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

- 13 (a) When the Secretary of Agriculture, Food and Markets receives a
14 complaint and determines that a farmer is in violation of the requirements of
15 this chapter, rules adopted under this chapter, or a permit or certification issued
16 under this chapter, the Secretary shall notify the farmer within three business
17 days of the nature of the complaint, including the alleged violation. The
18 Secretary shall not be required to identify the source of the complaint.
- 19 (b) When the Secretary of Agriculture, Food and Markets determines that a
20 person is violating the requirements of this chapter, rules adopted under this
21 chapter, or a permit or certification issued under this chapter, the Secretary

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1 may issue a written warning that shall be served in person or by certified mail,
2 return receipt requested. A warning issued under this subsection shall include:

3 (1) a description of the alleged violation;

4 (2) identification of this section;

5 (3) identification of the applicable statute, rule, or permit condition
6 violated;

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

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

11 (c) A person issued a warning under this section shall have 30 days to
12 respond to the written warning and shall provide an abatement schedule for
13 curing the violation and a description of the corrective action to be taken to
14 cure the violation.

15 (d) If a person who receives a warning under this subsection fails to
16 respond in a timely manner to the written warning or to take corrective action,
17 the Secretary may act pursuant to section 4993 or section 4995 of this section
18 in order to protect water quality.

19 § 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST
20 ORDERS; EMERGENCY ORDERS

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

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

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

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

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

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

16 (3) Institute appropriate proceedings on behalf of the Agency of
17 Agriculture, Food and Markets to enforce the requirements of this chapter,
18 rules adopted under this chapter, or a permit or certification issued under this
19 chapter.

20 (4) Order mandatory corrective actions, including a requirement that the
21 owner or operator of a farm sell or otherwise remove livestock from a farm or

1 production area when the volume of waste produced by livestock on the farm
2 exceeds the infrastructure capacity of the farm or the production area to
3 manage the waste or waste leachate and prevent runoff or leaching of wastes to
4 waters of the State or groundwater, as required by this chapter.

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

12 (b) A person may request that the Secretary hold a hearing on a cease and
13 desist order or an emergency order issued under this section within five days of
14 receipt of the order. Upon receipt of a request for a hearing, the Secretary
15 promptly shall set a date and time for a hearing. A request for a hearing on a
16 cease and desist order or emergency order issued under this section shall not
17 stay the order.

18 § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

19 The Secretary may, after due notice and hearing, revoke or condition
20 coverage under a general permit, an individual permit, a small farm
21 certification, or other permit or certification issued under this chapter or rules

1 adopted under this chapter when the person subject to the permit or
2 certification fails to comply with a requirement of this chapter or any term,
3 provision, or requirements of a permit or certification required by this chapter.
4 The Secretary may also seek enforcement remedies and penalties under this
5 subchapter against any person who fails to comply with any term, provision, or
6 requirements of a permit or certification required by this chapter or who
7 violates the terms or conditions of coverage under any general permit, any
8 individual permit, or any certification issued under this chapter.

9 § 4995. CIVIL ENFORCEMENT

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

16 (b) The court may grant temporary and permanent injunctive relief,
17 and may:

18 (1) Enjoin future activities.

19 (2) Order corrective actions to be taken to mitigate or curtail any
20 violation and to protect human health or the environment, including the

21 including a requirement that the owner or operator of a farm sell or otherwise

1 remove livestock from the farm or production area when the volume of wastes
2 produced by livestock exceeds the infrastructure capacity of the farm or its
3 production area to manage the waste or waste leachate to prevent runoff or
4 leaching of wastes to waters of the State or groundwater as required by the
5 standards in this chapter.

6 (3) Order the design, construction, installation, operation, or
7 maintenance of facilities designed to mitigate or prevent a violation of this
8 chapter or to protect human health or the environment or designed to assure
9 compliance.

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

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

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

17 (7) Levy a civil penalty as provided in this subdivision. A civil penalty
18 of not more than \$85,000.00 may be imposed for each violation. In addition,
19 in the case of a continuing violation, a penalty of not more than \$42,500.00
20 may be imposed for each day the violation continues. In fixing the amount of
21 the penalty, the court shall apply the criteria set forth in subsections (e) and (f)

1 of this section. The cost of collection of penalties or other monetary awards
2 shall be assessed against and added to a penalty assessed against a respondent.

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

6 (A) a violation exists; or

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

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

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

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

16 (A) the degree of actual or potential impact on public health, safety,
17 welfare, and the environment resulting from the violation;

18 (B) the presence of mitigating circumstances, including unreasonable
19 delay by the Secretary in seeking enforcement;

20 (C) whether the respondent knew or had reason to know the violation
21 existed;

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1 (D) the respondent's record of compliance;

2 (E) the deterrent effect of the penalty;

3 (F) the State's actual costs of enforcement; and

4 (G) the length of time the violation has existed.

5 (2) In determining the amount of the penalty provided in subsection (b)

6 of this section, the court may consider additional relevant factors.

7 (f) In addition to any penalty assessed under subsection (b) of this section,

8 the Secretary may also recapture economic benefit resulting from a violation.

9 § 4996. APPEALS; ENFORCEMENT

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

16 (b) If the Secretary issues an emergency order under this chapter, the
17 person subject to the order may request a hearing before the Superior Court.
18 Notice of the request for hearing under this subdivision shall be filed with the
19 Superior Court and the Secretary within five days of receipt of the order. A
20 hearing on the emergency order shall be held at the earliest possible time and
21 shall take precedence over all other hearings. The hearing shall be held within

1 five days of receipt of the notice of the request for hearing. A request for
2 hearing on an emergency order shall not stay the order. The Superior Court
3 shall issue a decision within five days from the conclusion of the hearing, and
4 no later than 30 days from the date the notice of request for hearing was
5 received by the person subject to the order.

6 Sec. 21. 6 V.S.A. § 4812 is amended to read:

7 § 4812. CORRECTIVE ACTIONS

8 ~~(a) When the Secretary of Agriculture, Food and Markets determines that a~~
9 ~~person engaged in farming is managing a farm using practices which are~~
10 ~~inconsistent with the requirements of this chapter or rules adopted under this~~
11 ~~subchapter, the Secretary may issue a written warning which shall be served in~~
12 ~~person or by certified mail, return receipt requested. The warning shall include~~
13 ~~a brief description of the alleged violation, identification of this statute and~~
14 ~~applicable rules, a recommendation for corrective actions that may be taken by~~
15 ~~the person, along with a summary of federal and State assistance programs~~
16 ~~which may be utilized by the person to remedy the violation. The person shall~~
17 ~~have 30 days to respond to the written warning and shall provide an abatement~~
18 ~~schedule for curing the violation and a description of the corrective action to be~~
19 ~~taken to cure the violation. If the person fails to respond to the written warning~~
20 ~~within this period or to take corrective action to change the practices, the~~

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1 Secretary may act pursuant to subsection (b) of this section in order to protect
2 water quality.

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

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

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

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

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

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

20 Sec. 22. 6 V.S.A. § 4854 is amended to read:

21 § 4854. REVOCATION; ENFORCEMENT

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

13 Sec. 23. 6 V.S.A. § 4860 is amended to read:

14 § 4860. ~~REVOCATION; ENFORCEMENT~~

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

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

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

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

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1 * * * Stream Alteration; Agricultural Activities * * *

2 Sec. 24. 10 V.S.A. § 1021 is amended to read:

3 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

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

12 * * *

13 (f) This subchapter shall not apply to:

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

19 (2) a farm that is implementing an approved U.S. Department of
20 Agriculture Natural Resource Conservation Service streambank stabilization
21 project or a streambank stabilization project approved by the Secretary of

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1 Agriculture, Food and Markets that is consistent with policies adopted by the
2 Secretary of Natural Resources to reduce fluvial erosion hazards.

3 * * *

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

6 Sec. 25. 32 V.S.A. § 3756(i) is amended to read:

7 (i)(1) The Director shall remove from use value appraisal an entire parcel
8 of managed ~~forest land~~ forestland and notify the owner ~~in accordance with the~~
9 ~~procedure in subsection (b) of this section~~ when the ~~Department~~ Commissioner
10 of Forests, Parks and Recreation has not received a management activity report
11 or has received an adverse inspection report, unless the lack of conformance
12 consists solely of the failure to make prescribed planned cutting. In that case,
13 the Director may delay removal from use value appraisal for a period of one
14 year at a time to allow time to bring the parcel into conformance with the plan.

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

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

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

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

18 Sec. 26. 32 V.S.A. § 3758 is amended to read:

19 § 3758. APPEALS

20 (a) Whenever the Director denies in whole or in part any application for
21 classification as agricultural land or managed forestland or farm buildings, or

1 grants a different classification than that applied for, or the Director or
 2 assessing officials fix a use value appraisal or determine that previously
 3 classified property is no longer eligible or that the property has undergone a
 4 change in use, the aggrieved owner may appeal the decision of the Director to
 5 the Commissioner within 30 days of the decision, and from there to Superior
 6 Court in the county in which the property is located.

7 * * *

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

12 Sec. 27. 32 V.S.A. § 3752(5) is amended to read:

13 (5) “Development” means, for the purposes of determining whether a
 14 land use change tax is to be assessed under section 3757 of this chapter, the
 15 construction of any building, road, or other structure, or any mining,
 16 excavation, or landfill activity. “Development” also means the subdivision of
 17 a parcel of land into two or more parcels, regardless of whether a change in use
 18 actually occurs, where one or more of the resulting parcels contains less than
 19 25 acres each; but if subdivision is solely the result of a transfer to one or more
 20 of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of
 21 the transferor, or to the surviving spouse of any of the foregoing, then

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

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1 * * * Agency of Natural Resources Basin Planning * * *

2 Sec. ~~28~~. 10 V.S.A. § 1253 is amended to read:

3 § 1253. CLASSIFICATION OF WATERS DESIGNATED,

4 RECLASSIFICATION

5 * * *

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

1 basin plans. ~~By January 1, 1993, the Secretary shall prepare an overall~~
2 ~~management plan to ensure that the water quality standards are met in all State~~
3 ~~waters.~~ The report shall include a summary of basin planning activities in the
4 previous calendar year, a schedule for the production of basin plans in the
5 subsequent calendar year, and a summary of actions to be taken over the
6 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of
7 required reports) shall not apply to the report to be made under this subsection.

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

9 (A) identify waters that should be reclassified as class A waters or
10 outstanding resource waters;

11 (B) identify wetlands that should be reclassified as Class I wetlands;

12 (C) identify projects or activities within a basin that will result in the
13 protection and enhancement of water quality;

14 (D) assure that municipal officials, citizens, watershed groups, and
15 other interested groups and individuals are involved in the basin planning
16 process;

17 (E) assure regional and local input in State water quality policy
18 development and planning processes;

19 (F) provide education to municipal officials and citizens regarding
20 the basin planning process;

1 (G) develop, in consultation with the applicable regional planning
2 commission, an analysis and formal recommendation on conformance with the
3 goals and objectives of applicable regional plans;

4 (H) provide for public notice of a draft basin plan; and

5 (I) provide for the opportunity of public comment on a draft basin
6 plan.

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

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

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

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

- 1 (D) assist the Secretary in implementing a project evaluation process
2 to prioritize water quality improvement projects within the region to assure
3 cost effective use of State and federal funds;
- 4 (e) In determining the question of public interest, the Secretary shall give due
5 consideration to, and explain his or her decision with respect to, the following:
- 6 (1) existing and obtainable water qualities;
- 7 (2) existing and potential use of waters for public water supply,
8 recreational, agricultural, industrial, and other legitimate purposes;
- 9 (3) natural sources of pollution;
- 10 (4) public and private pollution sources and the alternative means of
11 abating the same;
- 12 (5) consistency with the State water quality policy established in
13 10 V.S.A. § 1250;
- 14 (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
- 15 (7) need for and use of minimum streamflow requirements;
- 16 (8) federal requirements for classification and management of waters;
- 17 (9) consistency with applicable municipal, regional, and State plans; and
- 18 (10) any other factors relevant to determine the maximum beneficial use
19 and enjoyment of waters.

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

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

7 Sec. 29. 24 V.S.A. § 4302 is amended to read:

8 § 4302. PURPOSE; GOALS

9 * * *

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

13 * * *

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

16 * * *

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

19 (A) Vermont's air, water, wildlife, mineral and land resources should
20 be planned for use and development according to the principles set forth in
21 10 V.S.A. § 6086(a).

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

4 * * *

5 Sec. 30. 24 V.S.A. § 4348(c) is amended to read:

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

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

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

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

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

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

3 Sec. 31. 24 V.S.A. § 4348a(a) is amended to read:

4 (a) A regional plan shall be consistent with the goals established in section
5 4302 of this title and shall include the following:

6 * * *

7 (6) A statement of policies on the:

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

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

13 * * *

14 * * * Antidegradation Policy Implementation Rule * * *

15 Sec. 32. 10 V.S.A. § 1251a(c) is amended to read:

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

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1 requirements of the federal Clean Water Act. ~~On or before July 1, 2008, a~~
 2 ~~final proposal of the rules for an implementation process for the~~
 3 ~~antidegradation policy shall be filed with the Secretary of State under 3 V.S.A.~~
 4 ~~§ 841.~~

* * * Stormwater Management * * *

6 Sec. 33. 10 V.S.A. § 1264 is amended to read:

7 § 1264. STORMWATER MANAGEMENT

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

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

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

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

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

5 ~~permit program based on the requirements of this section for the discharge of~~

6 ~~“regulated stormwater runoff” as that term is defined in subdivision (11) of this~~

7 ~~subsection. As used in this section:~~

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

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

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

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

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

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1 ~~does not mean an increase or addition of impervious surface of less than 5,000~~
2 ~~square feet.~~

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

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

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

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

17 ~~(10) “Redevelopment” means the construction or reconstruction of an~~
18 ~~impervious surface where an impervious surface already exists when such new~~
19 ~~construction involves substantial site grading, substantial subsurface~~
20 ~~excavation, or substantial modification of existing stormwater conveyance,~~
21 ~~such that the total of impervious surface to be constructed or reconstructed is~~

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

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

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

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

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

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

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

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

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

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

21 (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~~

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,~~

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.~~

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

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, green infrastructure, and
6 other management 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) Green infrastructure means a wide range of multi-functional, natural
13 and semi-natural landscape elements that are located within, around, and
14 between developed areas, that are applicable at all spatial scales, and that are
15 designed to control or collect stormwater runoff.

16 (5) “Healthy soil” means soil that has a well-developed, porous
17 structure, is chemically balanced, supports diverse microbial communities, and
18 has abundant organic matter.

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

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

4 (8) “Offset” means a State-permitted or -approved action or project
5 within a stormwater-impaired water, Lake Champlain, or a water that
6 contributes to the impairment of Lake Champlain that a discharger or a third
7 person may complete to mitigate the impacts that a discharge of regulated
8 stormwater runoff has on the stormwater-impaired water, or the impacts of
9 phosphorus on Lake Champlain, or a water that contributes to the impairment
10 of Lake Champlain.

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

20 (10) “Regulated stormwater runoff” means precipitation, snowmelt, and
21 the material dissolved or suspended in precipitation and snowmelt that runs off

1 impervious surfaces and discharges into surface waters or into groundwater via
2 infiltration.

3 (11) “Stormwater impact fee” means the monetary charge assessed to a
4 permit applicant for the discharge of regulated stormwater runoff to a
5 stormwater-impaired water or for the discharge of phosphorus to Lake
6 Champlain or a water that contributes to the impairment of Lake Champlain in
7 order to mitigate a sediment load level, hydrologic impact, or other impact that
8 the discharger is unable to control through on-site treatment or completion of
9 an offset on a site owned or controlled by the permit applicant.

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

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

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

19 (15) “Stormwater system” includes the storm sewers; outfall sewers;
20 surface drains; manmade wetlands; channels; ditches; wet and dry bottom
21 basins; rain gardens; and other control equipment necessary and appurtenant to

1 the collection, transportation, conveyance, pumping, treatment, disposal, and
2 discharge of regulated stormwater runoff.

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

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

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

16 (c) Prohibitions.

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

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

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

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

10 (5) A person shall not expand existing impervious surface by more than
11 5,000 square feet, such that the total resulting impervious area is greater than
12 one acre, without first obtaining a permit from the Secretary.

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

16 (i) an individual permit;

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

18 (iii) coverage under a municipal separate stormsewer system

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

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

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

11 (d) Exemptions.

12 (1) No permit is required under this section for:

13 (A) Stormwater runoff from farms in compliance with agricultural
14 practices adopted by the Secretary of Agriculture, Food and Markets.

15 (B) Stormwater runoff from concentrated animal feeding operations
16 permitted under subsection 1263(g) of this chapter.

17 (C) Stormwater runoff from silvicultural activities in compliance
18 with the Acceptable Management Practices for Maintaining Water Quality on
19 Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks
20 and Recreation.

21 (D) Stormwater runoff permitted under section 1263 of this title.

1 (2) No permit is required under subdivision (c)(1), (5), or (8) of this
2 section and for which a municipality has assumed full legal as part of a permit
3 issued to the municipality by the Secretary. As used in this subdivision, “full
4 legal responsibility” means legal control of the stormwater system, including a
5 legal right to access the stormwater system, a legal duty to properly maintain
6 the stormwater system, and a legal duty to repair and replace the stormwater
7 system when it no longer adequately protects waters of the State.

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

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

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

4 (A) assuring compliance with the Vermont Water Quality
5 Standards; and

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

8 (2) Establish criteria for the use of the basin planning process to
9 establish watershed-specific priorities for the management of stormwater
10 runoff.

11 (3) Assure consistency with applicable requirements of the federal Clean
12 Water Act.

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

16 (5) Specify minimum requirements for inspection and maintenance of
17 stormwater management practices.

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

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

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

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

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

16 (11) Include standards for alternative best management practices for
17 stormwater permitting of renewable energy projects and telecommunication
18 facilities located in high-elevation settings, provided that the alternative best
19 management practices shall be designed to:

20 (A) minimize the extent and footprint of stormwater-treatment
21 practices in order to preserve vegetation and trees;

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

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

5 (12) Establish best management practices for improving healthy soils in
6 order to improve the capacity of soil to retain water, improve flood resiliency,
7 reduce sedimentation, and prevent stormwater runoff.

8 (g) General permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (C) Require that a discharge of stormwater from impervious surface
5 subject to the requirements of this section comply with the standards of
6 subsection (h) of this section for redevelopment of or renewal of a permit for
7 existing impervious surface.

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

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

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

13 (2) For discharges of regulated stormwater to a stormwater impaired
14 water, for discharges of phosphorus to Lake Champlain, or for discharges of
15 phosphorus to a water that contributes to the impairment of Lake Champlain:

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

19 (i) A new discharge or the expanded portion of an existing
20 discharge shall satisfy the requirements of the Stormwater Management

1 Manual and shall not increase the pollutant load in the receiving water for
2 stormwater.

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

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

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

16 (ii) For redevelopment of or renewal of a permit for existing
17 impervious surface, the Secretary shall determine that there is sufficient
18 pollutant load allocations for the discharge and the Secretary shall include any
19 requirements that the Secretary deems necessary to implement the TMDL or
20 water quality remediation plan.

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

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

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

18 Sec. 34. ANR REPORT ON REGULATORY THRESHOLD FOR
19 PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS
20 SURFACES

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

7 The report shall include:

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

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

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

17 (4) an estimate of the number of staff that would be needed by the
18 Agency of Natural Resources to effectively implement a stormwater operating
19 permit program with a regulatory permitting threshold of one-half acre of
20 impervious surface; and

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

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

5 Sec. 35. STORMWATER MANAGEMENT PRACTICES HANDBOOK

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

14 * * * Water Quality Data Coordination * * *

15 Sec. 36. 10 V.S.A. § 1284 is added to read:

16 § 1284. WATER QUALITY DATA COORDINATION

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

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

21 (2) stream gauge data;

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

2 (4) water quality monitoring or sampling data;

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

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

5 permits issued in a watershed; and

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

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

8 section, the Secretary shall:

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

10 collection of such data;

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

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

13 water quality remediation or response.

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

15 website of the Agency of Natural Resources.

16 *** Lake Champlain TMDL Implementation Plan***

17 Sec. 37. 10 V.S.A. § 1386 is amended to read:

18 § 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN

19 TOTAL MAXIMUM DAILY LOAD PLAN

20 (a) Within ~~42~~ three months after the issuance of a phosphorus total

21 maximum daily load plan (TMDL) for Lake Champlain by the U.S.

1 Environmental Protection Agency, the Secretary of Natural Resources shall
2 ~~issue a Vermont-specific implementation plan for the Lake Champlain TMDL.~~
3 ~~Every four years after issuance of the Lake Champlain TMDL by the U.S.~~
4 ~~Environmental Protection Agency, the Secretary of Natural Resources shall~~
5 ~~amend and update the Vermont-specific implementation plan for the Lake~~
6 ~~Champlain TMDL. Prior to issuing, amending, or updating the implementation~~
7 ~~plan, the Secretary shall consult with the Agency of Agriculture, Food and~~
8 ~~Markets, all statewide environmental organizations that express an interest in~~
9 ~~the plan, the Vermont League of Cities and Towns, all business organizations~~
10 ~~that express an interest in the plan, the University of Vermont Rubenstein~~
11 ~~Ecosystem Science Laboratory, and other interested parties. The~~
12 ~~implementation plan shall include a comprehensive strategy for implementing~~
13 ~~the Lake Champlain TMDL plan and for the remediation of Lake Champlain.~~
14 ~~The implementation plan shall be issued as a document separate from the Lake~~
15 ~~Champlain TMDL. The implementation plan shall:~~
16 (1) ~~Include or reference the elements set forth in 40 C.F.R. § 130.6(c) for~~
17 ~~water quality management plans;~~
18 (2) ~~Comply with the requirements of section 1258 of this title and~~
19 ~~administer a permit program to manage discharges to Lake Champlain~~
20 ~~consistent with the federal Clean Water Act;~~

1 (3) Develop a process for identifying critical source areas for non-point
2 source pollution in each subwatershed. As used in this subdivision, "critical
3 source area" means an area in a watershed with high potential for the release,
4 discharge, or runoff of phosphorus to the waters of the State;

5 (4) Develop site-specific plans to reduce point source and non-point
6 source load discharges in critical source areas identified under subdivision (3)
7 of this subsection;

8 (5) Develop a method for identifying and prioritizing on public and
9 private land pollution control projects with the potential to provide the greatest
10 water quality benefits to Lake Champlain;

11 (6) Develop a method of accounting for changes in phosphorus loading
12 to Lake Champlain due to implementation of the TMDL and other factors;

13 (7) Develop phosphorus reduction targets related to phosphorus
14 reduction for each water quality program and for each segment of Lake
15 Champlain, including benchmarks for phosphorus reduction that shall be
16 achieved. The implementation plan shall explain the methodology used to
17 develop phosphorus reduction targets under this subdivision;

18 (8) Establish a method for the coordination and collaboration of water
19 quality programs within the State;

1 ~~(9) Develop a method for offering incentives or disincentives to~~
2 ~~wastewater treatment plants for maintaining the 2006 levels of phosphorus~~
3 ~~discharge to Lake Champlain;~~

4 ~~(10) Develop a method of offering incentives or disincentives for~~
5 ~~reducing the phosphorus contribution of stormwater discharges within the Lake~~
6 ~~Champlain basin~~ update the State of Vermont’s phase I TMDL implementation
7 plan to reflect the elements that the State determines are necessary to meet the
8 allocations established in the final TMDL for Lake Champlain. The update of
9 the phase I TMDL implementation plan for Lake Champlain shall explain how
10 basin plans will be used to implement the updated phase I TMDL
11 implementation plan, and shall include a schedule for the adoption of basin
12 plans with the Lake Champlain basin. In addition to the requirements of
13 subsection 1253(d) of this title, a basin plan for a basin within the Lake
14 Champlain basin shall include the following:

15 (1) phosphorus reduction strategies within the basin that will achieve the
16 State’s obligations under the phase I TMDL implementation plan for Lake
17 Champlain;

18 (2) a schedule for the issuance of permits to control phosphorus
19 discharges from wastewater treatment facilities as necessary to implement the
20 State’s obligations under the phase I TMDL implementation plan for Lake
21 Champlain;

1 (3) a schedule for the issuance of permits to control stormwater
2 discharges as necessary to implement the State’s obligations under the phase I
3 TMDL implementation plan for Lake Champlain;

4 (4) wetland and river corridor restoration and protection projects that
5 will achieve the State’s obligations under the phase I TMDL implementation
6 plan for Lake Champlain;

7 (5) a table of non-point source activities that will achieve the State’s
8 obligations under the phase I TMDL implementation plan for Lake Champlain;
9 and

10 (6) other strategies and activities that the Secretary determines to be
11 necessary to achieve the State’s obligations under the phase I TMDL
12 implementation plan for Lake Champlain.

13 ~~(b) In amending the Vermont specific implementation plan of the Lake~~
14 ~~Champlain TMDL under this section, the Secretary of Natural Resources shall~~
15 ~~comply with the public participation requirements of 40 C.F.R. §~~

16 ~~130.7(e)(1)(ii) The Secretary shall develop and implement a method of~~
17 ~~tracking and accounting for actions implemented to achieve the Lake~~
18 ~~Champlain TMDL.~~

19 (c) Prior to finalizing the update to the phase I TMDL implementation plan
20 for Lake Champlain, the Secretary shall provide notice to the public of the
21 proposed revisions and a comment period of no less than 30 days.

1 (d) On or before January 15 in the year following issuance of the updated
2 phase I TMDL implementation plan for Lake Champlain under subsection (a)
3 of this section and every four years thereafter, the Secretary shall report to the
4 House Committee on Fish, Wildlife and Water Resources, the Senate
5 Committee on Natural Resources and Energy, the House Committee on
6 Agriculture and Forest Products, and the Senate Committee on Agriculture
7 regarding the execution of the updated phase I TMDL implementation plan for
8 Lake Champlain. The report shall include:

9 ~~(1) The amendments or revisions to the implementation plan for the~~
10 ~~Lake Champlain TMDL required by subsection (a) of this section. Prior to~~
11 ~~submitting a report required by this subsection that includes amendments to~~
12 ~~revisions to the implementation plan, the Secretary shall hold at least three~~
13 ~~public hearings in the Lake Champlain watershed to describe the amendments~~
14 ~~and revisions to the implementation plan for the Lake Champlain TMDL. The~~
15 ~~Secretary shall prepare a responsiveness summary for each public hearing. A~~
16 summary of the efforts undertaken to implement the phase I TMDL
17 implementation plan for Lake Champlain.

18 (2) An assessment of the implementation plan for the Lake Champlain
19 TMDL based on available data, including an evaluation of the efficacy of the
20 phase I TMDL implementation plan for Lake Champlain.

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1 (3) Recommendations, if any, for amending the implementation plan or
2 for reopening the Lake Champlain TMDL.

3 (d) (e) Beginning February 1, 2014 2016 and annually thereafter, the
4 Secretary, after consultation with the Secretary of Agriculture, Food and
5 Markets and the Secretary of Transportation, shall submit to the House
6 Committee on Fish, Wildlife and Water Resources, the Senate Committee on
7 Natural Resources and Energy, the House Committee on Agriculture and
8 Forest Products, and the Senate Committee on Agriculture a summary of
9 activities and measures of progress of water quality ecosystem restoration
10 programs.

11 * * * Water Quality Funding; Clean Water Fund; Clean Water Board; Reports
12 and Audit; Rooms, Meals, and Alcohol Tax * * *

13 Sec. 38. 10 V.S.A. chapter 47, subchapter 7 is added to read:

14 Subchapter 7. Vermont Clean Water Fund

15 § 1387. PURPOSE

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

18 The Clean Water Fund shall be used to:

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

1 (2) provide necessary funding for staffing positions of the Agency of
2 Natural Resources and the Agency of Agriculture, Food and Markets related to
3 improving water quality; and

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

7 § 1388. CLEAN WATER FUND

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

10 (1) the Fund shall be administered by the Clean Water Fund Board
11 established under section 1389 of this title;

12 (2) the Fund shall consist of:

13 (A) revenues dedicated for deposit into the Fund by the General
14 Assembly, including:

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

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

18 (iii) the Clean Water Fund per parcel fee established under 32

19 V.S.A. § 10502.

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

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

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

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

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

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

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

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

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

17 (d) Powers and duties of the Clean Water Fund Board.

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

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

4 (B)(i) To make recommendations to the Secretary of Administration
5 regarding the appropriate allocation of funds from the Clean Water Fund for
6 the purposes of developing the State budget. All recommendations from the
7 Board should be intended to achieve the greatest water quality gain for the
8 investment.

9 (ii) In making recommendations, the Board shall prioritize:

10 (I) funding to maintain 13 staff positions of the Agency of
11 Natural Resources and seven staff positions of the Agency of Agriculture,
12 Food and Markets related to improving State water quality;

13 (II) funding to programs and projects that address sources of
14 water pollution in waters listed as impaired on the list of waters established by
15 33 U.S.C. § 1313(d);

16 (III) funding to projects that address water pollution identified
17 as a significant contributor of water quality pollution, including financial
18 assistance to grant recipients at the initiation of a funded project;

19 (IV) funding to programs or projects that address or repair
20 riparian conditions that increase the risk of flooding or pose a threat to life or
21 property;

1 (V) assistance required for State and municipal compliance

2 with stormwater requirements for highways and roads; and

3 (VI) funding for education, outreach, demonstration and access

4 to tools for the implementation of the Acceptable Management Practices for

5 Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the

6 Commissioner of Forests, Parks and Recreation.

7 (iii) In making recommendations, the Board may prioritize:

8 (I) funding for education and outreach regarding the

9 implementation of water quality requirements;

10 (II) funding to innovative or alternative technologies or

11 practices designed to improve water quality or reduce sources of pollution to

12 surface waters; and

13 (III) funding to purchase agricultural land in order to take that

14 land out of practice when the State water quality requirements cannot be

15 remediated through agricultural Best Management Practices.

16 (iv) The Board shall develop its recommendations in order to

17 provide equitable apportionment of awards from the Fund to all regions of the

18 State and for control of all sources of point and non-point sources of pollution

19 in the State; and

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

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

5 (A) A protocol for how an administrative agency in the State shall
6 submit a proposed recommendation of award from the Fund.

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

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

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

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

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

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

1 § 1390. CLEAN WATER INVESTMENT REPORT

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

19 (b) The Board shall develop and use a results based accountability process
20 in publishing the annual report required by subsection (a) of this section.

1 § 1389a. CLEAN WATER FUND AUDIT

2 (a) On or before January 15, 2020, the Secretary of Administration shall
3 submit to the House and Senate Committees on Appropriations, the Senate
4 Committee on Agriculture, the House Committee on Agriculture and Forest
5 Products, the Senate Committee on Natural Resources and Energy, and the
6 House Committee on Fish, Wildlife and Water Resources a program audit of
7 the Clean Water Fund. The report shall include:

8 (1) a summary of the expenditures from the Clean Water Fund,
9 including the water quality projects and programs that received funding;

10 (2) an analysis and summary of the efficacy of the water quality projects
11 and programs funded from the Clean Water Fund or implemented by the State;

12 (3) an evaluation of whether water quality projects and programs funded
13 or implemented by the State are achieving the intended water quality
14 benefits; and

15 (4) a recommendation of whether the General Assembly should
16 authorize the continuation of the Clean Water Fund and, if so, at what funding
17 level.

18 (b) The audit required by this section shall be conducted by a qualified,
19 independent environmental consultant or organization with knowledge of the
20 federal Clean Water Act, State water quality requirements and programs, the

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1 Lake Champlain Total Maximum Daily Load plan, and the program elements
2 of the State clean water initiative.

3 * * * Clean Water Fund Per Parcel Fee * * *

4 Sec. 39. 32 V.S.A. § 10502 is added to read:

5 § 10502. CLEAN WATER FUND PER PARCEL FEE

6 (a) Per parcel fee.

7 (1) An annual Clean Water Fund per parcel fee shall be assessed on
8 every parcel in the State.

9 (2)(A) The Clean Water Fund per parcel fee shall be as follows:

10 (i) \$0.50 per acre of forestland enrolled in use value appraisal
11 under chapter 124 of this title; and

12 (ii) \$1.00 per acre for all other land.

13 (B) The minimum per parcel fee assessed under this section shall be
14 \$25.00.

15 (3) In calculating the Clean Water Fund per parcel fee for properties of
16 more than 25 acres, parcels shall be rounded down to the nearest whole acre.

17 (b) Exemption. A municipality shall not assess the fee established under
18 subsection (a) of this section to:

19 (1) a parcel exempt from taxation under State or federal law;

20 (2) a parcel composed entirely of a railroad track right-of-way, provided
21 that the Commissioner shall assess the fee on parcels on which railroad

1 stations, maintenance buildings, or other developed land used for railroad

2 purposes is located; or

3 (3) a parcel of land for which the State lacks authority to impose the fee

4 established by this section.

5 (c) Assessment and collection of fee.

6 (1) Beginning on July 1, 2015, the Clean Water Fund per parcel fee shall

7 be assessed and collected as part of the tax bill issued under subsection 5402(b)

8 of this title, and may be prorated according to the number of tax bills assessed

9 by a municipality. A municipality shall list the fee assessed under this section

10 on a tax bill as the “Clean Water Fund Per Parcel Fee.” The Clean Water Fund

11 per parcel fee shall be listed separately from the tax collected under subsection

12 5402(b) of this title, provided that the payment for both the tax and fee shall be

13 made in one form of payment.

14 (2) The treasurer of each municipality shall remit the collected Clean

15 Water Fund per parcel fee to the State Treasurer:

16 (A) in one payment due on December 1 of each year; or

17 (B) as authorized by the Department procedure adopted under section

18 (e) of this section.

19 (3) Municipalities may use all authority under chapter 133 of this title

20 for the assessment and collection of the fee, including collection of fees and

21 costs under section 5288 of this title.

1 (4) In case of insufficient payment of the per parcel fee by a taxpayer to
2 a municipality, the municipality shall not be required to remit to the State the
3 amount of full liability for all parcels within the municipality.

4 (5) In the case of a taxpayer who pays only a portion of the full tax
5 under subsection 5402(b) and the full amount of the Clean Water Fund per
6 parcel fee, a municipal treasurer shall credit all payment made by the taxpayer
7 to the tax liability under subsection 5402(b) of this title before remitting fees to
8 the Clean Water Fund under subsection (d) of this section.

9 (d) Disposition. The Commissioner of Taxes shall deposit all fees
10 collected under this section in the Clean Water Fund, established under 10
11 V.S.A. § 1387, for the authorized uses of that Fund.

12 (e) Department procedure. The Department of Taxes shall, after
13 consultation with municipal officials or representatives of municipal officials,
14 issue a procedure regarding the process for collection of the Clean Water Fund
15 per parcel fee as part of the tax bill issued under subsection 5402(b) of this
16 title. In the procedure, the Department shall address how parcels are assessed,
17 remittance, and enforcement of the Clean Water Fund per parcel fee, including
18 how frequently a municipality may remit to the Department fees collected
19 under this section. The Department also shall include in the procedure
20 guidance for municipalities regarding whether a fee paid under this section is
21 tax deductible.

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1 (f) Abatement. A person may seek and a municipality may grant under
2 24 V.S.A. § 1535 abatement of a fee assessed under this section.

3 (g) Education and outreach. The Department shall hold educational
4 meetings or prepare education materials for municipal officials regarding the
5 requirements of this section.

6 Sec. 40. 32 V.S.A. § 5258 is amended to read:

7 § 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY
8 RECORDED

9 The fees and costs allowed after the warrant and levy for delinquent taxes
10 have been recorded shall be as follows: Levy and extending of warrant,
11 \$10.00; recording levy and extending of warrant in town clerk’s office, \$10.00,
12 to be paid the town clerk; notices and publication of notice, actual costs
13 incurred; and expenses actually and reasonably incurred by the tax collector for
14 legal assistance in the preparation for or conduct of said sale when authorized
15 by the selectboard, provided that such expenses shall not exceed 15 percent of
16 the uncollected tax; travel, reimbursement at the rate established by the
17 contract governing State employees; attending and holding sale, \$10.00;
18 making return \$10.00 and recording same in town clerk’s office, to be paid the
19 town clerk \$10.00; \$10.00 for collection of a delinquent Clean Water per
20 parcel fee assessed under section 10502 of this title; collector’s deed, \$30.00;

1 which fees and costs, together with the collector's fee of eight percent shall be
2 in lieu of any or all other fees and costs permitted or allowed by law.

3 **Sec. 41. REPEAL OF CLEAN WATER FUND PER PARCEL FEE**

4 32 V.S.A. § 10502 (Clean Water Fund per parcel fee) shall be repealed on
5 July 1, 2021.

6 * * * Appropriations of Agency Staff * * *

7 **Sec. 42. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD**
8 **AND MARKETS STAFF**

9 In addition to any other funds appropriated to the Agency of Agriculture,
10 Food and Markets in fiscal year 2016, there is appropriated from the Clean
11 Water Fund created under 10 V.S.A § 1387 to the Agency \$952,000.00 in
12 fiscal year 2016 for the purpose of hiring 7 positions for implementation and
13 administration of agricultural water quality programs in the State.

14 **Sec. 43. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL**
15 **CONSERVATION STAFF**

16 In addition to any other funds appropriated to the Department of
17 Environmental Conservation in fiscal year 2016, there is appropriated from the
18 Clean Water Fund created under 10 V.S.A § 1387 to the Department
19 \$1,540,000.00 in fiscal year 2016 for the purpose of hiring 13 positions for
20 implementation and administration of agricultural water quality programs in

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1 the State and for contracting with regional planning commissions as authorized
2 by 10 V.S.A. § 1253.

3 Sec. 44. 32 V.S.A. § 9241 is amended to read:

4 § 9241. IMPOSITION OF TAX

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

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

11	\$0.01-0.11	\$0.01
12	0.12-0.22	0.02
13	0.23-0.33	0.03
14	0.34-0.44	0.04
15	0.45-0.55	0.05
16	0.56-0.66	0.06
17	0.67-0.77	0.07
18	0.78-0.88	0.08
19	0.89-1.00	0.09
20	<u>\$0.01-0.05</u>	<u>\$0.00</u>
21	<u>0.06-0.15</u>	<u>0.01</u>

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1	<u>0.16-0.26</u>	<u>0.02</u>
2	<u>0.27-0.36</u>	<u>0.03</u>
3	<u>0.37-0.47</u>	<u>0.04</u>
4	<u>0.48-0.57</u>	<u>0.05</u>
5	<u>0.58-0.68</u>	<u>0.06</u>
6	<u>0.69-0.78</u>	<u>0.07</u>
7	<u>0.79-0.89</u>	<u>0.08</u>
8	<u>0.90-0.99</u>	<u>0.09</u>

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

13	\$.01-.14	\$.01
14	.15-.24	.02
15	.25-.34	.03
16	.35-.44	.04
17	.45-.54	.05
18	.55-.64	.06
19	.65-.74	.07
20	.75-.84	.08
21	.85-.94	.09

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1	<u>.95-1.00</u>	<u>.10</u>
2	<u>\$0.01-0.08</u>	<u>\$0.00</u>
3	<u>0.09-0.18</u>	<u>0.01</u>
4	<u>0.19-0.28</u>	<u>0.02</u>
5	<u>0.29-0.38</u>	<u>0.03</u>
6	<u>0.39-0.48</u>	<u>0.04</u>
7	<u>0.49-0.58</u>	<u>0.05</u>
8	<u>0.59-0.68</u>	<u>0.06</u>
9	<u>0.69-0.78</u>	<u>0.07</u>
10	<u>0.79-0.88</u>	<u>0.08</u>
11	<u>0.89-0.99</u>	<u>0.09</u>

12 Sec. 45. 32 V.S.A. § 9242(c) is amended to read:

13 (c) A tax of nine and one-half percent of the gross receipts from ~~meals and~~
14 occupancies, nine and one-half percent of the gross receipts from meals, and
15 10 and one-half percent of the gross receipts from alcoholic beverages,
16 exclusive of taxes collected pursuant to section 9241 of this title, received from
17 occupancy rentals, taxable meals and alcoholic beverages by an operator, is
18 hereby levied and imposed and shall be paid to the State by the operator as
19 herein provided. Every person required to file a return under this chapter shall,
20 at the time of filing the return, pay the Commissioner the taxes imposed by this
21 chapter as well as all other monies collected by him or her under this chapter;

1 provided, however, that every person who collects the taxes on taxable meals
2 and alcoholic beverages according to the tax bracket schedules of section 9241
3 of this title shall be allowed to retain any amount lawfully collected by the
4 person in excess of the tax imposed by this chapter as compensation for the
5 keeping of prescribed records and the proper account and remitting of taxes.

6 Sec. 46. 32 V.S.A. § 435 is amended to read:

7 § 435. GENERAL FUND

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

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

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

14 (2) [Repealed.]

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

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

17 of this title;

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

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

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

21 pursuant to chapter 225 of this title;

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1 (8) [Repealed.]

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

3 609;

4 (10) 33 percent of the revenue from the property transfer taxes levied
5 pursuant to chapter 231 of this title and the revenue from the gains taxes levied
6 each year pursuant to chapter 236 of this title;

7 (11) 65 percent of the revenue from sales and use taxes levied pursuant
8 to chapter 233 of this title;

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

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

13 Sec. 47. SECRETARY OF ADMINISTRATION REPORT ON PER
14 PARCEL WATER QUALITY FEE

15 (a) On or before January 15, 2016, the Secretary of Administration, after
16 consultation with the Department of Taxes, shall submit to the House
17 Committee on Fish, Wildlife and Water Resources, the Senate Committee on
18 Natural Resources and Energy, the House Committee on Agriculture and
19 Forest Products, the Senate Committee on Agriculture, the House Committee
20 on Ways and Means, and the Senate Committee on Finance a recommendation
21 for establishing a fee on parcels of property in the State for the purpose of

1 raising revenue to fund water quality improvement programs in the State. The
2 recommendation shall include:

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

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

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

10 (4) a legislative proposal to implement the proposed per parcel fee
11 program.

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

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

15 Sec. 48. 3 V.S.A. § 2822 is amended to read:

16 § 2822. BUDGET AND REPORT; POWERS

17 ***

18 (i) The Secretary shall not process an application for which the applicable
19 fee has not been paid unless the Secretary specifies that the fee may be paid at
20 a different time or unless the person applying for the permit is exempt from the
21 permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons~~

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1 who are exempt under 32 V.S.A. § 710 are also exempt from the application
 2 fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I)
 3 and (II) of this section if they otherwise meet the requirements of 32 V.S.A.
 4 § 710. Municipalities shall be exempt from the payment of fees under this
 5 section except for those fees prescribed in subdivisions (j)(1), (2), (7), (8), (14),
 6 and (15) of this section for which a municipality may recover its costs by
 7 charging a user fee to those who use the permitted services. Municipalities
 8 shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26),
 9 except that a municipality shall also be exempt from those fees for orphan
 10 stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I)
 11 or (II) of this section when the municipality agrees to become an applicant or
 12 co-applicant for an orphan stormwater system under 10 V.S.A. § 1264e for
 13 which a municipality has assumed full legal responsibility under 10 V.S.A.
 14 § 1264.

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

* * *

19 (2) For discharge permits issued under 10 V.S.A. chapter 47 and orders
 20 issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~
 21 \$240.00 shall be paid at the time of application for a discharge permit in

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1 addition to any application review fee and any annual operating fee, except for
 2 permit applications under subdivisions (2)(A)(iii)(III) and (V) of this
 3 subsection:

4 (A) Application review fee.

5 (i) Municipal, industrial,
 6 noncontact cooling water, and
 7 thermal discharges.

8 (I) Individual permit: original ~~\$0.0023~~ \$0.003 per gallon
 9 application; amendment for design flow; minimum
 10 increased flows; amendment ~~\$50.00~~ \$100.00 per
 11 for change in treatment process; outfall; maximum
 12 ~~30,000.00~~ 30,000.00 per application.

13 (II) Renewal, transfer, or minor ~~\$0.00~~ \$0.002 per gallon
 14 amendment of individual permit; design flow; minimum
 15 ~~\$50.00~~ \$50.00 per outfall;
 16 ~~maximum \$5,000.00~~ maximum \$5,000.00 per
 17 application.

18 (III) General permit; ~~\$0.00~~ \$0.00.

19 (ii) Pretreatment discharges.

20 (I) Individual permit: original ~~\$0.12~~ \$0.20 per gallon
 21 application; amendment for design flow; minimum

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1 increased flows; amendment for ~~\$50.00~~ \$100.00 per

2 change in treatment process; outfall.

3 (II) Renewal, transfer, or minor ~~\$0.00~~ \$0.002 per gallon

4 amendment of individual permit; design flow; minimum

5 \$50.00 per outfall.

6 (iii) Stormwater discharges.

7 (I) Individual operating permit ~~\$430.00~~ \$860.00 per acre

8 or application to operate under impervious area;

9 general operating permit for minimum ~~\$220.00~~

10 collected stormwater runoff \$440.00 per application.

11 which is discharged to Class B

12 waters: original application;

13 amendment for increased flows;

14 amendment for change in

15 treatment process;

16 (II) Individual operating permit \$1,400.00 per acre

17 or application to operate under impervious area;

18 general operating permit for minimum \$1,400.00

19 collected stormwater runoff which per application.

20 is discharged to Class A waters;

21 original application; amendment

1 for increased flows; amendment

2 for change in treatment process.

3 (III) Individual permit or

4 application to operate under

5 general permit for construction

6 activities; original application;

7 amendment for increased acreage.

8 (aa) Projects with low risk to \$50.00 five acres or

9 waters of the State-; less: \$100.00 per project;

10 original application.

11 (bb) Projects with low risk to \$220.00 per project.

12 waters of the State; greater than

13 five acres:

14 (cc) Projects with moderate risk \$360.00; five acres

15 to waters of the State-; or less: \$480.00 per

16 project original

17 application.

18 (cc) ~~Projects that require an~~ \$720.00 per project

19 ~~individual permit.~~ original application.

20 (dd) Projects with moderate risk \$640.00.

21 to waters of the State; greater

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1 than five acres:

2 (ee) Projects that require an \$1,200.00.

3 individual permit; ten acres

4 or less:

5 (ff) Projects that require an \$1,800.00.

6 individual permit; greater than

7 10 acres:

8 (IV) Individual permit or ~~\$220.00~~ \$440.00 per

9 application to operate under facility.

10 general permit for stormwater

11 runoff associated with industrial

12 activities with specified SIC

13 codes; original application;

14 amendment for change in activities-;

15 (V) Individual permit or ~~\$1,200.00~~ \$2,400.00

16 application to operate under per system.

17 general permit for stormwater

18 runoff associated with

19 municipal separate storm sewer

20 systems; original application; amendment

21 for change in activities-;

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

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

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

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

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

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

19 * * *

20 (B) Annual operating fee.

21 (i) Industrial, noncontact cooling ~~\$0.001~~ \$0.0015 per gallon

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

1 Class B waters:;

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

3 approval under general permit per facility.

4 for stormwater runoff from

5 industrial facilities with

6 specified SIC codes:;

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

8 application to operate under \$10.00 per acre of

9 general permit for stormwater impervious surface within

10 runoff associated with municipal the municipality; annually.

11 separate storm sewer systems:;

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

13 residually designated stormwater discharges.

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

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

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

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

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

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

20 authorization annually.

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

3 * * *

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

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

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

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

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

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

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

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

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

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

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

4 (12) For dam permits issued under 10 V.S.A. chapter 43: ~~0.525~~ 1.00
5 percent of construction costs, minimum fee of ~~\$200.00~~ \$1,000.00.

6 * * *

7 (14) For certification of sewage treatment plant operators issued under
8 10 V.S.A. chapter 47:

9 (A) original application: ~~\$110.00~~ \$125.00.

10 (B) renewal application: ~~\$110.00~~ \$125.00.

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

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

16 (B) all other types of facilities: ~~\$110.00~~ \$125.00 per
17 application.

18 * * *

19 (26) For individual conditional use determinations, for individual
20 wetland permits, for general conditional use determinations issued under
21 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit,

1 an administrative processing fee assessed under subdivision (2) of this
2 subsection (j) and an application fee of:

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

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

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

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

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

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

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

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* * *

(33) \$10.00 per 1000 gallons based on the rated capacity of the tank

being pumped rounded to the nearest 1000 gallon.

* * *

Sec. 49. 32 V.S.A. § 710 is amended to read:

§ 710. PAYMENT OF STATE AGENCY FEES

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

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

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

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

16 * * * Wastewater Treatment Plants; Financial Assistance for

17 Phosphorus Reduction * * *

18 Sec. 50. 10 V.S.A. § 1266a is amended to read:

19 § 1266a. DISCHARGES OF PHOSPHORUS

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

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

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

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

1 Sec. 51. 10 V.S.A. § 1625 is amended to read:

2 § 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO

3 ABATE DRY WEATHER SEWAGE FLOWS

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

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

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

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

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

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

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

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

10 Logging Jobs in Vermont * * *

11 Sec. 52. 10 V.S.A. § 2622 is amended to read:

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

13 MANAGEMENT PRACTICES FOR MAINTAINING WATER

14 QUALITY

15 (a) Silvicultural practices. ~~The commissioner~~ On or before July 1, 2015,

16 the Commissioner shall adopt rules commence rulemaking to establish

17 methods by which the harvest and utilization of timber in private and public

18 ~~forest land~~ forestland will be consistent with continuous forest growth,

19 including reforestation, will prevent wasteful and dangerous forestry practices,

20 will regulate heavy cutting, will encourage good forestry management, will

21 enable and assist landowners to practice good forestry management, and will

1 conserve the natural resources consistent with the purposes and policies of this
2 chapter, giving due consideration to the need to assure continuous supplies of
3 forest products and to the rights of the owner or operator of the land. The
4 Commissioner shall adopt the rules required by this section on or before July 1,
5 2016. Such rules adopted under this subsection shall be advisory, and not
6 mandatory except that the rules adopted under section 2625 of this title for the
7 regulation of heavy cutting shall be mandatory as shall other rules specifically
8 authorized to be mandatory.

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

1 in Vermont in accordance with section 1259 of this title. The rules adopted
2 under this subsection shall be advisory, and not mandatory.

3 Sec. 53. DEPARTMENT OF FORESTS, PARKS AND RECREATION
4 REPORT; ACCEPTABLE MANAGEMENT PRACTICES;
5 MAPLE SYRUP PRODUCTION UNDER USE VALUE
6 APPRAISAL

7 On or before January 15, 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 how:

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

15 (2) the Department of Forests, Parks and Recreation will enforce
16 acceptable management practices for maintaining water quality on logging jobs
17 in Vermont; and

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

21 Sec. 54. 10 V.S.A. § 1259(f) is amended to read:

1 (f) The provisions of subsections (c), (d), and (e) of this section shall not
 2 regulate ~~accepted~~ required agricultural ~~or silvicultural~~ practices, as such are
 3 defined adopted by rule by the ~~secretary of agriculture, food and markets and~~
 4 ~~the commissioner of forests, parks and recreation, respectively, after an~~
 5 ~~opportunity for a public hearing~~ Secretary of Agriculture, Food and Markets,
 6 or the acceptable management practices for maintaining water quality on
 7 logging jobs in Vermont, as adopted by the Commissioner of Forests, Parks
 8 and Recreation; nor shall these provisions regulate discharges from
 9 concentrated animal feeding operations that require a permit under section
 10 1263 of this title; nor shall those provisions prohibit stormwater runoff or the
 11 discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

12 Sec. ~~55~~. 24 V.S.A. § 4413(d) is amended to read:

13 (d) A bylaw under this chapter shall not regulate ~~accepted~~ required
 14 agricultural ~~and silvicultural~~ practices, including the construction of farm
 15 structures, as those practices are defined by the ~~secretary of agriculture, food~~
 16 ~~and markets~~ Secretary of Agriculture, Food and Markets or ~~the commissioner~~
 17 ~~of forests, parks and recreation~~ acceptable management practices for
 18 maintaining water quality on logging jobs in Vermont as adopted by the
 19 Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A.
 20 ~~§§ 1021(f) and 1259(f)~~ § 2622 and 6 V.S.A. § 4810.

21

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

2 Sec. 56. 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. 57. 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 \$0.01-0.14 \$0.01

14 0.15-0.24 0.02

15 0.25-0.34 0.03

16 0.35-0.44 0.04

17 0.45-0.54 0.05

18 0.55-0.64 0.06

19 0.65-0.74 0.07

20 0.75-0.84 0.08

21 0.85-0.94 0.09

1 0.95-1.00 0.10

2 Sec. 58. 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. 59. 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.

- 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;

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

4 Sec. 60. CLEAN WATER FUND; REPEAL OF DEPOSIT OF ROOMS,
5 MEALS, AND ALCOHOL TAX

6 10 V.S.A. § 1388(a)(2)(A)(i) (Clean Water Fund; rooms, meals, and
7 alcohol tax) shall be repealed on July 1, 2018.

8 Sec. 61. EFFECTIVE DATES

9 (a) This section and Secs. 34 (Clean Water Fund) and 39 (Clean Water
10 Fund per parcel fee) shall take effect on passage.

11 (b) The remainder of the bill shall take effect on July 1, 2015, except that:

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

13 (2) 6 V.S.A. § 4988(b) of Sec. 19 (custom applicator certification) shall
14 take effect 45 days after the effective date of rules adopted under 6 V.S.A.
15 § 4988(a).

16 (3) In Sec. 33, the permit requirements under 10 V.S.A. § 1264(h)(2) for
17 discharges of regulated stormwater to Lake Champlain or to a water that
18 contributes to the impairment of Lake Champlain shall take effect on October
19 1, 2015.

20 (4) Secs. 57-59 (repeal of increase in rooms, meals, and alcohol tax)
21 shall take effect July 1, 2018.

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11 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE