Section 1. Purpose; Agency of Natural Resources’ Authority Over Agricultural Water Quality Program

The purpose of this act is to transfer from the Secretary of Agriculture, Food and Markets to the Secretary of Natural Resources all authority to administer and enforce water quality requirements on farms in Vermont under

An act relating to administration and enforcement of agricultural water quality violations

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

* * * Agency of Natural Resources; Authority Over Agricultural Water Quality Program * * *

Sec. 1. PURPOSE; AGENCY OF NATURAL RESOURCES’ AUTHORITY OVER AGRICULTURAL WATER QUALITY PROGRAM

The purpose of this act is to transfer from the Secretary of Agriculture, Food and Markets to the Secretary of Natural Resources all authority to administer and enforce water quality requirements on farms in Vermont under

Statement of purpose of bill as introduced: This bill proposes to transfer from the Secretary of Agriculture, Food and Markets to the Secretary of Natural Resources all authority to administer and enforce water quality requirements on farms in Vermont.

Subject: Conservation and development; agriculture; water quality permitting; enforcement

Introduced by Senator Campion

Referred to Committee on
10 V.S.A. chapter 47 and other statutes that the Agency of Natural Resources
administers and enforces.

Sec. 2. 10 V.S.A. chapter 47, subchapter 2B is added to read:

Subchapter 2B. Agricultural Water Quality Program

§ 1320. PURPOSE

It is the purpose of this subchapter to ensure that agricultural waste and
fertilizers do not enter the waters of this State. Therefore, it is State policy that
all farms comply with water quality standards under this subchapter that
eliminate or reduce the discharge or runoff of agricultural waste and fertilizer
to waters of the State.

§ 1321. DEFINITIONS

As used in this subchapter:

(1) “Agricultural waste” means material originating or emanating from a
farm that is determined by the Secretary of Natural Resources to be harmful to
the waters of the State, including: sediments; minerals, including heavy
metals; plant nutrients; pesticides; organic wastes, including livestock waste,
animal mortalities, compost, feed and crop debris; waste oils; pathogenic
bacteria and viruses; thermal pollution; silage runoff; untreated milk house
waste; and any other farm waste as the term “waste” is defined in section 1251
of this title.
(2) “Animal feeding operation (AFO)” means a lot or facility where livestock or domestic fowl have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO that are under common ownership and that adjoin each other or use a common area or system for the disposal of waste shall be considered to be a single AFO if the combined number of livestock or domestic fowl on the combined farm qualifies as a large farm under subdivision (7) of this section or as a medium farm as defined in subdivision (10) of this section.

(3) “Best management practices (BMPs)” means site-specific, on-farm conservation practices implemented in order to address the potential for agricultural pollutants to enter the waters of the State.

(4) “Domestic fowl” means laying-hens, broilers, ducks, and turkeys.

(5) “Farm” means a parcel or parcels of land owned, leased, or managed by a person that are devoted primarily to farming and that meet the threshold criteria established under the Required Agricultural Practices, provided that a lessee controls the leased lands to the extent they would be considered as part of the lessee’s own farm. Indicators of control may include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related
use of the leased lands and whether the lessee manages the land for farming during the leased period.

(6) “Farming” means:

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

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

(C) the operation of greenhouses;

(D) the production of maple syrup;

(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm;

(F) the on-site production of fuel or power from agricultural products or wastes produced on the farm; or

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

(7) “Large farm” means an AFO that houses 700 or more mature dairy animals, 1,000 or more cattle or cow and calf pairs, 1,000 or more veal calves, 2,500 or more swine weighing over 55 pounds, 10,000 or more swine weighing 55 pounds or less, 500 or more horses, 10,000 or more sheep or lambs, 55,000 or more turkeys, 30,000 or more laying hens or broilers with a
liquid manure handling system, 82,000 or more laying hens without a liquid
manure handling system, 125,000 or more chickens other than laying hens
without a liquid manure handling system, 5,000 or more ducks with a liquid
manure handling system, 30,000 or more ducks without a liquid manure
handling system, or other livestock types, combinations, or numbers as
designated by the Secretary by rule.

(8) “Livestock” means cattle, cow and calf pairs, youngstock, heifers,
bulls, American bison, swine, sheep, goats, horses, cervids, camelids, ratites,
rabbits, pheasants, chukar partridge, coturnix quail, laying hens, broilers,
ducks, turkeys, or any other type of fowl as designated by the Secretary. Other
livestock types may be designated by the Secretary based on the potential of an
animal to generate nutrients or other associated agricultural wastes.

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

(10) “Medium farm” means an AFO that houses 200 to 699 mature
dairy animals, 300 to 999 cattle or cow and calf pairs, 300 to 999 veal calves,
750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing
55 pounds or less, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to
54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure
handling system, 25,000 to 81,999 laying hens without a liquid manure
handling system, 37,500 to 124,999 chickens other than laying hens without a
liquid manure handling system, 1,500 to 4,999 ducks with a liquid manure handling system, 10,000 to 29,999 ducks without a liquid manure handling system, or other livestock types, combinations, or numbers as designated by the Secretary by rule.

(11) “Secretary” means the Secretary of Natural Resources.

(12) “Small farm” means a parcel or parcels of land:

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

(B) that house not more than 199 mature dairy animals, 299 cattle or cow and calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999 swine weighing 55 pounds or less, 149 horses, 2,999 sheep or lambs, 16,499 turkeys, 8,999 laying hens or broilers with a liquid manure handling system, 24,999 laying hens without a liquid manure handling system, 37,499 chickens other than laying hens without a liquid manure handling system, 1,499 ducks with a liquid manure handling system; and

(C)(i) that house at least the number of mature animals designated by rule under the Required Agricultural Practices; or

(ii) that are used for the preparation, tilling, fertilization, planting, protection, irrigation, and harvesting of crops for sale.
§ 1322. AUTHORITY TO ADMINISTER AGRICULTURAL NONPOINT SOURCE CONTROL RULES

(a) Transfer of authority. The Secretary of Natural Resources is transferred the authority to administer and enforce the Large Farm Operation Rules (Large Farm Rules), the Medium and Small Farm Operation Rules for Issuance of General and Individual Permits (Medium Farm Rules), certification of small farms, and the Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program (Required Agricultural Practices or RAPs) of the Agency of Agriculture, Food and Markets, as those rules existed on July 1, 2020.

(b) Amendment of existing rules. The Secretary of Natural Resources may amend, repeal, or replace the Large Farm Rules, Medium Farm Rules, small farm certification, or RAPs at any time in accordance with the requirements of 3 V.S.A. chapter 25.

(c) Adoption of new rules. The Secretary of Natural Resources may adopt additional rules in accordance with the requirement of 3 V.S.A. chapter 25 in order to implement the requirements of this subchapter.

§ 1323. AGRICULTURAL WATER QUALITY PERMIT; ISSUANCE

(a) Agricultural water quality permit required; large farms and medium farms. No person shall operate a large farm or a medium farm in the State without an agricultural water quality permit from the Secretary.
(b) Permit issuance. The Secretary may issue an individual permit or
general permit for a large farm or medium farm required to obtain a permit
under subsection (a) of this section. A permit issued under this section shall be
issued according to the procedural requirements of subsection 1263(b) of this
title.

(c) Permit term. A permit issued under this chapter shall be valid for the
period of time specified in the permit, but the term shall not exceed five years.
A permit issued under this section may be renewed upon application to the
Secretary.

§ 1324. AGRICULTURAL WATER QUALITY PERMIT REQUIREMENTS

(a) Permit requirements. The Secretary shall require the operator of a large
farm or medium farm permitted under this subchapter to:

(1) provide to the Secretary evidence that the large farm or medium
farm maintains an adequately designed and sized manure management system
sufficient to accommodate wastes generated by livestock or domestic fowl on
the large farm or medium farm;

(2) adopt and implement a field-by-field nutrient management plan
consistent with the requirements of the U.S. Department of Agriculture’s
Natural Resource Conservation Service Nutrient Management Practice Code
590 or other equivalent standards approved by the Secretary:
(3) verify that there will be no unpermitted discharge from a large farm or medium farm to a water of the State; and

(4) comply with all applicable rules for operation of the large farm or medium farm.

(b) Discharge permit required. The Secretary shall require an operator of a large farm or medium farm to obtain a discharge permit under section 1263 of this title upon a determination of one or both of the following:

(1) the operator is discharging or has discharged wastes to a water of the State; or

(2) due to the physical, geomorphic, or geographic conditions of the farm, it is likely that land application of nutrients will run off to a water of the State.

§ 1325. SMALL FARM CERTIFICATION; INSPECTION

(a) Agricultural water quality certification; small farms. A person who owns or operates a small farm shall submit to the Secretary a form certifying whether or not the small farm complies with the Required Agricultural Practices.

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

(c) Small farm inspection. The Secretary may inspect a small farm in the State at any time for the purposes of assessing compliance by the small farm with the Required Agricultural Practices and determining consistency with a certification of compliance submitted by the person who owns or operates the small farm. The Secretary may prioritize inspections of small farms in the State based on identified water quality issues posed by a small farm. The Secretary may amend the Required Agricultural Practices to establish the required frequency of inspection of small farms.

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

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

(2) The Secretary annually shall establish a priority ranking system for small farms according to the water quality benefit associated with the capital, structural, or technical improvements identified as needed by the Secretary during an inspection of the farm. The Secretary shall submit the list of priority projects to the Secretary of Agriculture, Food and Markets to inform awards of financial assistance under 6 V.S.A. chapter 215.

§ 1326. BEST MANAGEMENT PRACTICES

(a) The Secretary of Natural Resources may require any person engaged in farming to implement a BMP. When requiring implementation of a BMP, the Secretary shall inform a farmer of financial resources available from State or federal sources, private foundations, public charities, or other sources, including funding from the Clean Water Fund established under section 1388 of this title, to assist the person in implementing BMPs and complying with the requirements of this chapter. BMPs shall be designed to achieve compliance with the requirements of this chapter.

(b) The Secretary of Natural Resources may require soil monitoring or innovative manure management as a BMP under this subsection. Soil monitoring or innovative manure management implemented as a BMP shall be
eligible for State assistance under the Clean Water Fund established under
section 1388 of this title.

§ 1327. SEASONAL APPLICATION OF MANURE

(a) Prohibition on application. A person shall not apply manure to land in
the State between December 15 and April 1 of any calendar year unless
authorized by this section.

(b) Extension of prohibition. The Secretary of Natural Resources may by
rule adopt or amend a process under which the Secretary may prohibit the
application of manure to land in the State between December 1 and
December 15 and between April 1 and April 30 of any calendar year when the
Secretary determines that due to weather conditions, soil conditions, or other
limitations, application of manure to land would pose a significant potential of
discharge or runoff to a State water.

(c) Seasonal exemption. The Secretary of Natural Resources may by rule
adopt or amend a process under which the Secretary may authorize an
exemption to the prohibition on the application of manure to land in the State
between December 15 and April 1 of any calendar year or during any period
established under subsection (b) of this section when manure is prohibited
from application. Any process established for the issuance of an exemption
under the Required Agricultural Practices may authorize land application of
manure on a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in the State, provided that any exemption shall:

(1) prohibit application of manure:

(A) in areas with established channels of concentrated stormwater runoff to a surface water, including ditches and ravines;

(B) in nonharvested permanent vegetative buffers;

(C) in a wetland, as that term is defined in subdivision 902(5) of this title, that is not used to grow food or crops in connection with farming activities;

(D) within 50 feet of a potable water supply, as that term is defined in subdivision 1972(6) of this title;

(E) to fields exceeding tolerable soil loss; and

(F) to saturated soils;

(2) establish requirements for the application of manure when frozen or snow-covered soils prevent effective incorporation at the time of application;

(3) require manure to be applied according to a nutrient management plan; and

(4) establish the maximum tons of manure that may be applied per acre during any one application.
§ 1328. AGRICULTURE WATER QUALITY TRAINING

(a) Training required. Owners or operators of certified small farms, permitted medium farms, or permitted large farms shall obtain water quality training as approved by the Secretary. Training shall provide information regarding:

(1) the prevention of discharges;

(2) the mitigation and management of stormwater runoff;

(3) statutory and regulatory requirements of the operation of a large, medium, or small farm and financial resources available to assist in compliance;

(4) the mechanical application of manure or nutrients and methods or techniques used to minimize the runoff of applied manure or nutrients to a water of the State;

(5) weather and soil conditions that increase the risk of runoff of manure or nutrients to a water of the State; and

(6) standards for nutrient management, including nutrient management planning.

(b) Training hours required. Large Farm Operations, Medium Farm Operations, and Certified Small Farm Operations shall obtain four hours of approved training at least once every five years. This requirement will commence upon notice from the Secretary.
(c) Approved training entities. The Secretary may approve training offered by other entities upon request of the entity providing the training. All requests for approval to train shall be provided to the Secretary at least 30 days prior to the scheduled training dates. The entity will be required to submit information about the training and attendees in a manner requested by the Secretary.

§ 1329. CUSTOM APPLICATOR CERTIFICATION

(a) Certification required. Custom applicators of manure or other agricultural wastes shall be certified by the Secretary in order to operate within the State and shall comply with all applicable requirements of the Required Agricultural Practices, Medium Farm Operations Rule and Permits, and Large Farm Operations Rule and Permits.

(b) Required knowledge. Custom applicators shall demonstrate knowledge of the Required Agricultural Practices, Medium Farm Operations Rule and Permits, and Large Farm Operations Rule and Permits, and the U.S. Department of Agriculture’s Natural Resource Conservation Service Nutrient Management Practice Code 590, including manure or other wastes application restrictions, buffer zones, setback requirements, and recordkeeping requirements.

(c) Demonstrated competency. Custom applicators shall demonstrate competency in methods and techniques used to minimize runoff from application sites, identification of weather or soil conditions that may increase
risk of field runoff, recordkeeping, and other information deemed pertinent by
the Secretary.

(d) Training of employees. Certified custom applicators shall train all
employees and seasonal workers in methods or techniques to minimize runoff
to surface water, identification of weather or soil conditions that may increase
the risk of runoff, the Required Agricultural Practices, Medium Farm
Operations Rule and Permits, and Large Farm Operations Rule and Permits,
and standards and restrictions for the application of manure or other
agricultural wastes. Records of training shall be maintained in a manner
prescribed by the Secretary.

(e) Certification term. Certification shall be valid for five years from the
date of issuance and shall be renewable annually on a form and in a manner
prescribed by the Secretary. Certified custom applicators shall complete eight
hours of training in each five-year period of certification. Completion of five-
year training requirements will serve as meeting the requirements for
recertification.

(f) Recordkeeping. Certified custom applicators shall maintain records of
the amount of manure or agricultural waste applied by farm and field for a
period of five years and provide those records to the Agency of Natural
Resources upon reasonable request.
Sec. 3. 10 V.S.A. § 1259 is amended to read:

§ 1259. PROHIBITIONS

(a) No person shall discharge any waste, substance, or material into waters of the State, nor shall any person discharge any waste, substance, or material into an injection well or discharge into a publicly owned treatment works any waste that interferes with, passes through without treatment, or is otherwise incompatible with those works or would have a substantial adverse effect on those works or on water quality, without first obtaining a permit for that discharge from the Secretary. This subsection shall not prohibit the proper application of fertilizer to fields and crops, nor reduce or affect the authority or policy declared in Joint House Resolution 7 of the 1971 Session of the General Assembly.

* * *

(f) The provisions of subsections (c), (d), and (e) of this section shall not regulate required agricultural practices, as adopted by rule by the Secretary of Agriculture, Food and Markets, or accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; nor shall these provisions regulate discharges from concentrated animal feeding operations that require a
permit under section 1263 of this title; nor shall those provisions prohibit
stormwater runoff or the discharge of nonpolluting wastes, as defined by the
Secretary.

* * *

(i) The Secretary of Natural Resources, to the extent compatible with
federal requirements, shall delegate to the Secretary of Agriculture, Food and
Markets the State agricultural non-point-source pollution control program
planning, implementation, and regulation. A memorandum of understanding
shall be adopted for this purpose, which shall address implementation grants,
the distribution of federal program assistance, and the development of land-use
performance standards. Prior to executing the memorandum, the Secretary of
State shall arrange for two formal publications of information relating to the
proposed memorandum. The information shall consist of a summary of the
proposal; the name, telephone number, and address of a person able to answer
questions and receive comments on the proposal; and the deadline for
receiving comments. Publication shall be subject to the provisions of 3 V.S.A.
§ 839(d), (e), and (g), relating to the publication of administrative rules. The
proposed memorandum of understanding shall be available for 30 days after
the final date of publication for public review and comment prior to being
executed by the Secretary of Natural Resources and the Secretary of
Agriculture, Food and Markets. The Secretary of Natural Resources and the
Secretary of Agriculture, Food and Markets annually shall review the memorandum of understanding to ensure compliance with the requirements of the Clean Water Act and the provisions of section 1258 of this title. If the memorandum is substantially revised, it first shall be noticed in the same manner that applies to the initial memorandum. Actions by the Secretary of Agriculture, Food and Markets under this section shall be consistent with the water quality standards and water pollution control requirements of chapter 47 of this title and the federal Clean Water Act as amended. The Secretary of Natural Resources shall implement and enforce an agricultural nonpoint source pollution program in the State. The Secretary of Agriculture, Food and Markets shall administer a financial assistance program to distribute to farmers federal and State financing to assist farmers in complying with the State requirements for agricultural nonpoint source pollution control.

* * *

Sec. 4. 10 V.S.A. § 1264(d) is amended to read:

(d) Exemptions.

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

(A) Stormwater runoff from farms in compliance with agricultural practices adopted by the Secretary of Agriculture, Food and Markets, provided that this exemption shall not apply to construction stormwater permits required
by subdivision (c)(4) of this section the agricultural water quality requirements

of subchapter 2B of this chapter.

(B) Stormwater runoff from concentrated animal feeding operations

permitted under subsection 1263(g) of this chapter.

(C) Stormwater runoff from accepted silvicultural practices, as

defined by the Commissioner of Forests, Parks and Recreation, including
practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as

adopted by the Commissioner of Forests, Parks and Recreation.

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

* * *

Sec. 5. 10 V.S.A. § 8003(d) is amended to read:

(d) Upon the request of the Secretary of Agriculture, Food and Markets, the

Secretary may take action under this chapter to enforce the agricultural water

quality requirements of, rules adopted under, and permits and certifications

issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and

the Secretary of Agriculture, Food and Markets shall enter into a memorandum

of understanding to implement this subsection. [Repealed.]
Agency of Agriculture, Food and Markets; Repeal of Regulatory Authority Over Agricultural Water Quality

Sec. 6. 6 V.S.A. chapter 215, subchapters 1–3 are amended to read:


§ 4801. PURPOSE; STATE POLICY

It is the purpose of this chapter to ensure that agricultural animal wastes do not enter the waters of this State. Therefore, it is State policy that:

(1) All farms meet certain standards in the handling and disposal of animal wastes, as provided by this chapter, and the cost of meeting these standards shall not be borne by farmers only, but rather by all members of society, who are in fact the beneficiaries. Accordingly, State and federal funds shall be made available to farms, regardless of size, to defray the major cost of complying with the requirements of this chapter. State and federal conservation programs to assist farmers should be directed to those farms that need to improve their infrastructure to prohibit direct discharges or bring existing water pollution control structures into compliance with U.S. Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service standards. Additional resources should be directed to education and technical assistance for farmers to improve the management of agricultural wastes and protect water quality.

(2) Officials who administer the provisions of this chapter:
(A) shall educate farmers and other affected citizens on requirements of this chapter through an outreach collaboration with farm associations and other community groups;

(B) shall, in the process of rendering official decisions, afford farmers and other affected citizens an opportunity to be heard and give consideration to all interests expressed; and

(C) may provide grants from a program established under this chapter to eligible Vermont municipalities, local or regional governmental agencies, nonprofit organizations, and citizen groups in order to provide direct financial assistance to farms in implementing conservation practices. [Repealed.]

§ 4802. DEFINITIONS

As used in this chapter:

* * *

(8) “Waste” or “agricultural waste” means material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including:
sediments; minerals, including heavy metals; plant nutrients; pesticides;
organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution;
silage runoff; untreated milk house waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12). [Repealed.]
§ 4803. AGRICULTURAL WATER QUALITY SPECIAL FUND

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

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

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

Subchapter 2. Water Quality; Required Agricultural Practices and Best Management Practices

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. § 1259(i), the Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall implement and enforce agricultural land use practices in order to satisfy the requirements of 33 U.S.C. § 1329 that the State identify and implement best management practices to control nonpoint sources of agricultural waste to
waters of the State. These agricultural land use practices shall be created in two categories, pursuant to subsections (b) and (c) of this section.

(b) Required Agricultural Practices. Required Agricultural Practices (RAPs) shall be management standards to be followed by all persons engaged in farming in this State. These standards shall address activities which have a potential for causing agricultural pollutants to enter the groundwater and waters of the State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities. The RAPs shall include, as well as promote and encourage, practices for farmers in preventing agricultural pollutants from entering the groundwater and waters of the State when engaged in animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. Persons engaged in farming who are in compliance with these practices shall be presumed to not have a discharge of agricultural pollutants to waters of the State. RAPs shall be designed to protect water quality and shall be practical and cost-effective to implement, as determined by the Secretary. Where the Secretary determines, after inspection of a farm, that a person engaged in farming is complying with the RAPs but there still exists the potential for agricultural pollutants to enter the waters of the State, the Secretary shall require the person to implement additional, site-
specific on-farm conservation practices designed to prevent agricultural
pollutants from entering the waters of the State. When requiring
implementation of a conservation practice under this subsection, the Secretary
shall inform the person engaged in farming of the resources available to assist
the person in implementing the conservation practice and complying with the
requirements of this chapter. The RAPs for groundwater shall include a
process under which the Agency shall receive, investigate, and respond to a
complaint that a farm has contaminated the drinking water or groundwater of a
property owner. A farmer may petition the Secretary to reduce the size of a
perennial buffer or change the perennial buffer type based on site-specific
conditions.

(c) Best Management Practices. Best management practices (BMPs) are
site-specific on-farm conservation practices implemented in order to address
the potential for agricultural pollutants to enter the waters of the State. The
Secretary may require any person engaged in farming to implement a BMP.
When requiring implementation of a BMP, the Secretary shall inform a farmer
of financial resources available from State or federal sources, private
foundations, public charities, or other sources, including funding from the
Clean Water Fund established under 10 V.S.A. § 1388, to assist the person in
implementing BMPs and complying with the requirements of this chapter.
BMPs shall be practical and cost-effective to implement, as determined by the
Secretary, and shall be designed to achieve compliance with the requirements of this chapter. The Secretary may require soil monitoring or innovative manure management as a BMP under this subsection. Soil monitoring or innovative manure management implemented as a BMP shall be eligible for State assistance under the Clean Water Fund established under 10 V.S.A. chapter 47, subchapter 7. If a perennial buffer of trees or other woody vegetation is required as a BMP, the Secretary shall pay the farmer for a first priority easement on the land on which the buffer is located.

(d) Cooperation and coordination. The Secretary of Agriculture, Food and Markets shall coordinate with the Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. On or before July 1, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall revise the memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing, and how they will coordinate watershed planning activities to comply with Pub. L. No. 92-500. The memorandum of understanding shall describe how the agencies will implement the antidegradation implementation policy, including how the agencies will apply the antidegradation implementation policy to new sources of agricultural non-point source pollutants. The
Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall also develop a memorandum of understanding according to the public notice and comment process of 10 V.S.A. § 1259(i) regarding the implementation of the federal Concentrated Animal Feeding Operation Program and the relationship between the requirements of the federal Program and the State agricultural water quality requirements for large, medium, and small farms under this chapter. The memorandum of understanding shall describe Program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall be consistent with the Secretary’s duties, established under the provisions of 10 V.S.A. § 1258(b), to comply with Pub. L. No. 92-500. The Secretary of Natural Resources shall be the State lead person in applying for federal funds under Pub. L. No. 92-500, but shall consult with the Secretary of Agriculture, Food and Markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from federal funds. The Secretary of Agriculture, Food and Markets shall be represented in reviewing these projects for funding. Actions
by the Secretary of Agriculture, Food and Markets under this chapter
concerning agricultural non-point source pollution shall be consistent with the
water quality standards and water pollution control requirements of 10 V.S.A.
chapter 47 and the federal Clean Water Act as amended. In addition, the
Secretary of Agriculture, Food and Markets shall coordinate with the Secretary
of Natural Resources in implementing and enforcing programs, plans, and
practices developed for the proper management of composting facilities when
those facilities are located on a farm. On or before January 15, 2016, the
Secretary of Agriculture, Food and Markets and the Secretary of Natural
Resources shall each develop three separate measures of the performance of
the agencies under the memorandum of understanding required by this
subsection. Beginning on January 15, 2017, and annually thereafter, the
Secretary of Agriculture, Food and Markets and the Secretary of Natural
Resources shall submit separate reports to the Senate Committee on
Agriculture, the House Committee on Agriculture and Forestry, the Senate
Committee on Natural Resources and Energy, and the House Committee on
Natural Resources, Fish, and Wildlife regarding the success of each agency in
meeting the performance measures for the memorandum of understanding.
[Repealed.]
§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) The Secretary of Agriculture, Food and Markets shall maintain the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small farm certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) Except as authorized under subdivision (C) of this subdivision (2), prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

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

(ii) on lands in a floodway or otherwise subject to annual flooding.
(B) Except as authorized under subdivision (C) of this subdivision

(2), manure stacking or piling sites, fertilizer storage, or other nutrient storage shall not be located within 200 feet of a private well or within 200 feet of a water of the State.

(C) The Secretary may authorize one or more of the following:

(i) siting of manure stacking or piling sites, fertilizer storage, or other nutrient storage within 200 feet, but not less than 100 feet, of a private well or surface water if the Secretary determines that the site is the best available site on the farm for the purposes of protecting groundwater quality or surface water quality; and

(ii) siting of a waste storage facility within 200 feet of a surface water or private well if the site is the best available site on the farm for the purposes of protecting groundwater quality or surface water quality and the waste storage facility is designed by a licensed engineer to meet the requirements of section 4815 of this title.

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

(4) Establish standards for nutrient management on farms, including:
(A) required nutrient management planning on all farms that manage
agricultural wastes; and

(B) recommended practices for improving and maintaining soil
quality and healthy soils in order to increase the capacity of soil to retain water,
improve flood resiliency, reduce sedimentation, reduce reliance on fertilizers
and pesticides, and prevent agricultural stormwater runoff.

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

(6)(A) Require a farm to comply with standards established by the
Secretary for maintaining a vegetative buffer zone of perennial vegetation
between annual croplands and the top of the bank of an adjoining water of the
State. At a minimum the vegetative buffer standards established by the
Secretary shall prohibit the application of manure on the farm within 25 feet of
the top of the bank of an adjoining water of the State or within 10 feet of a
ditch that is not a surface water under State law and that is not a water of the
United States under federal law.
(B) Establish standards for site-specific vegetative buffers that adequately address water quality needs based on consideration of soil type, slope, crop type, proximity to water, and other relevant factors.

(7) [Repealed.]

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

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

(10) Establish standards for soil conservation practices such as cover cropping.

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

(b) The Secretary of Agriculture, Food and Markets shall maintain the required agricultural practices in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage.
Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

(c) The Secretary shall amend the required agricultural practices to include requirements for activities occurring in areas that are excluded from regulation by the Agency of Natural Resources under 10 V.S.A. § 902 because the area is used to grow food or crops in connection with farming activities. [Repealed.]

§ 4811. POWERS OF SECRETARY

The Secretary of Agriculture, Food and Markets in furtherance of the purposes of this chapter may:

(1) Make, adopt, revise, and amend reasonable rules that define practices described in section 4810 of this title as well as other rules deemed necessary to carry out the provisions of this chapter. [Repealed.]

(2) Appoint assistants, subject to applicable laws, to perform or assist in the performance of any duties or functions of the Secretary under this chapter.

(3) Enter any lands, public or private, and review and copy any land management records as may be necessary to carry out the provisions of this chapter. [Repealed.]
(4) Sign memorandums of understanding between agencies when the Secretary of Agriculture, Food and Markets agrees it is necessary for the success of the program. [Repealed.]

(5) Solicit and receive federal or private funds.

(6) Cooperate fully with the Secretary of Natural Resources, the federal government, or other agencies in the operation of any joint federal-state programs concerning the regulation of agricultural non-point source pollution.

(7) Establish programs to improve agricultural water quality. [Repealed.]

(8) Provide grants or contracts from agricultural water quality programs established under this chapter, or by the Secretary of Agriculture, Food and Markets for the purpose of providing technical and financial assistance in preventing agricultural pollution from entering groundwater and waters of the State, provided that the Secretary shall only use capital funding available to the Agency for water quality programs or projects that are eligible for capital assistance.

§ 4813. BASIN MANAGEMENT; APPEALS TO THE ENVIRONMENTAL DIVISION

(a) The Secretary of Agriculture, Food and Markets shall cooperate with the Secretary of Natural Resources in the basin planning process with regard to
the agricultural non-point source waste component of each basin plan. Any
person with an interest in the agricultural non-point source component of the
basin planning process may petition the Secretary of Agriculture, Food and
Markets to require, and the Secretary may require, best management practices
in the individual basin beyond required agricultural practices adopted by rule,
in order to achieve compliance with the water quality goals in 10 V.S.A. § 1250 and any duly adopted basin plan. The Secretary of Agriculture, Food and
Markets shall hold a public hearing within 60 days and shall issue a timely
written decision that sets forth the facts and reasons supporting the decision.

(b) Any person engaged in farming that has been required by the Secretary
of Agriculture, Food and Markets to implement best management practices or
any person who has petitioned the Secretary of Agriculture, Food and Markets
under subsection (a) of this section may appeal the Secretary of Agriculture,
Food and Markets’ decision to the Environmental Division de novo.

(c) When requiring implementation of a best management practice, the
Secretary shall inform a farmer of the resources available to assist the farmer in
implementing the best management practice and complying with the
requirements of this chapter. [Repealed.]

* * *

§ 4815. WASTE STORAGE FACILITY

* * *
As used in this section, “waste:

(1) “Agricultural waste” has the same meaning as in 10 V.S.A. § 1321.

(2) “Waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an inground and aboveground structure, or any combination thereof.

§ 4816. SEASONAL APPLICATION OF MANURE

(a) Prohibition on application. A person shall not apply manure to land in the State between December 15 and April 1 of any calendar year unless authorized by this section.

(b) Extension of prohibition. The Secretary of Agriculture, Food and Markets shall amend the required agricultural practices by rule in order to establish a process under which the Secretary may prohibit the application of manure to land in the State between December 1 and December 15 and between April 1 and April 30 of any calendar year when the Secretary determines that due to weather conditions, soil conditions, or other limitations, application of manure to land would pose a significant potential of discharge or runoff to State waters.

(c) Seasonal exemption. The Secretary of Agriculture, Food and Markets shall amend the required agricultural practices by rule in order to establish a process under which the Secretary may authorize an exemption to the
prohibition on the application of manure to land in the State between December 15 and April 1 of any calendar year or during any period established under subsection (b) of this section when manure is prohibited from application. Any process established for the issuance of an exemption under the required agricultural practices may authorize land application of manure on a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in the State, provided that any exemption shall:

(1) prohibit application of manure:

(A) in areas with established channels of concentrated stormwater runoff to surface waters, including ditches and ravines;

(B) in nonharvested permanent vegetative buffers;

(C) in a nonfarmed wetland, as that term is defined in 10 V.S.A. § 902(5);

(D) within 50 feet of a potable water supply, as that term is defined in 10 V.S.A. § 1972(6);

(E) to fields exceeding tolerable soil loss; and

(F) to saturated soils;

(2) establish requirements for the application of manure when frozen or snow-covered soils prevent effective incorporation at the time of application;

(3) require manure to be applied according to a nutrient management plan; and
(4) establish the maximum tons of manure that may be applied per acre during any one application. [Repealed.]

§ 4820. DEFINITIONS

As used in this subchapter:

(1) “RAPs” means “required agricultural practices” as defined by the Secretary of Agriculture, Food and Markets pursuant to subchapter 1 of this chapter Natural Resources under 10 V.S.A. chapter 47.

§ 4823. PRIORITIES; STATE FINANCIAL ASSISTANCE AWARDS

(a) Priorities. State financial assistance available under this subchapter shall in each fiscal year be allocated according to the following priorities, except as provided by subsection (b) of this section, and as further defined by rule by the Secretary:

(1) First priority shall be given to proposed improvements on individual farms which that do not meet RAPs adopted by the Secretary of Natural Resources under 10 V.S.A. chapter 47 because of physical constraints of a farm site, which that are located, in descending order: within the boundaries of the Lake Champlain Basin, the Lake Memphremagog Basin, the Connecticut...
River Basin, or the Hudson River Basin as these boundaries are defined by the State Water Quality Plan prepared by the Agency of Natural Resources.

(2) Next priority shall be given to proposed improvements on all other individual farms which that are located, in descending order, within the boundaries of the Lake Champlain Basin, the Lake Memphremagog Basin, the Connecticut River Basin, or the Hudson River Basin.

(b) Exceptions. The Secretary may award financial assistance under this subchapter for improvements on a farm which that otherwise would not receive assistance under the priorities established by this section, when the Secretary determines a severe condition of nonpoint source waste discharge exists which that requires immediate abatement.

* * *

§ 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for cost assistance. Using State or federal funds, or both, a State assistance grant shall be awarded, subject to the availability of funds, to applicants. Such The grants shall not exceed 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation
Service cost share assistance. Application for a State assistance grant shall be made in the manner prescribed by the Secretary.

(b) If the Secretary lacks adequate funds necessary for the cost assistance awards required by subsection (a) of this section, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. If the Emergency Board fails to provide adequate funds, the design and construction requirements for waste storage facilities under subsection 4815(b) of this title and the RAPs for groundwater, as they relate to a waste storage facility, shall be suspended for a farm with a waste storage facility subject to the requirements of subsection 4815(b) of this title until adequate funding becomes available. Suspension of the design and construction requirements of subsection 4815(b) of this title does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title from the remaining requirements of the owner’s or operator’s permit, including discharge standards, groundwater protection, nutrient management planning, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263. [Repealed.]

(c) The owner or operator of a farm with a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for a State assistance grant for the costs of complying with the U.S. Department of Agriculture’s Natural Resources Conservation Service
requirements for inspection of a waste storage facility. Such The grants shall not exceed 90 percent of the cost of the inspection of the waste storage facility. Application for a State assistance grant shall be made in the manner prescribed by the Secretary.

§ 4827. NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS

(a) A farm developing or implementing a nutrient management plan under chapter 215 of this title 10 V.S.A. chapter 47 or federal regulations may apply to the Secretary of Agriculture, Food and Markets for financial assistance. The financial assistance shall be in the form of incentive grants. Annually, after consultation with the Natural Resources Conservation Service of the U.S. Department of Agriculture, natural resources conservation districts, the University of Vermont Extension Service and others, the Secretary shall determine the average cost of developing and implementing a nutrient management plan in Vermont. The dollar amount of an incentive grant awarded under this section shall be equal to the average cost of developing a nutrient management plan as determined by the Secretary or the cost of complying with the nutrient management planning requirements of chapter 215 of this title 10 V.S.A. chapter 47 or federal regulations, whichever is less.

* * *

(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial
assistance required by subsection (a) of this section, the requirement to develop
and implement a nutrient management plan under State statute or State
regulation shall be suspended until adequate funding becomes available.
Suspension of a State-required nutrient management plan does not relieve an
owner or operator of a farm permitted under section 4858 or 4851 of this title
of the remaining requirements of a State permit, including discharge standards,
groundwater protection, and land application of manure. This subsection does
not apply to farms permitted under 10 V.S.A. § 1263. [Repealed.]

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

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the Secretary, construct a new
barn, or expand an existing barn, designed to house more than 700 mature
dairy animals, 1,000 cattle or cow/calf, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than
55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying
hens or broilers with a liquid manure handling system, 82,000 laying hens
without a liquid manure handling system, 125,000 chickens other than laying
hens without a liquid manure handling system, 5,000 ducks with a liquid
manure handling system, or 30,000 ducks without a liquid manure handling
system. No permit shall be required to replace an existing barn in use for
livestock or domestic fowl production at its existing capacity. The Secretary of
Agriculture, Food and Markets, in consultation with the Secretary of Natural
Resources, shall review any application for a permit under this section with
regard to water quality impacts and, prior to approval of a permit under this
subsection, shall issue a written determination regarding whether the applicant
has established that there will be no unpermitted discharge to waters of the
State pursuant to the federal regulations for concentrated animal feeding
operations. If upon review of an application for a permit under this subsection,
the Secretary of Agriculture, Food and Markets determines that the permit
applicant may be discharging to waters of the State, the Secretary of
Agriculture, Food and Markets and the Secretary of Natural Resources shall
respond to the discharge in accordance with the memorandum of
understanding regarding concentrated animal feeding operations under section
4810 of this title. The Secretary of Natural Resources may require a large farm
to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for
centrated animal feeding operations.

(b) A person shall apply for a permit in order to operate a farm which that
exceeds 700 mature dairy animals, 1,000 cattle or cow/calf, cow and calf, pairs,
1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine
weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs,
55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling
system, 82,000 laying hens without a liquid manure handling system,

125,000 chickens other than laying hens without a liquid manure handling

system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if
the livestock or domestic fowl are in a barn or adjacent barns owned by the
same person, or if the barns share a common border or have a common waste
disposal system. In order to receive this permit, the person shall demonstrate
to the Secretary that the farm has an adequately sized manure management
system to accommodate the wastes generated and a nutrient management plan
to dispose of wastes in accordance with required agricultural practices adopted
under this chapter Required Agricultural Practices administered by the
Secretary of Natural Resources and current U.S. Department of Agriculture
nutrient management standards.

(c) The Secretary shall approve, condition, or disapprove the application
within 45 business days of the date of receipt of a complete application for a
permit under this section. Failure to act within the 45 business days shall be
deemed approval.

(d) A person seeking a permit under this section shall apply in writing to
the Secretary. The application shall include a description of the proposed barn
or expansion of livestock or domestic fowl; a proposed nutrient management
plan to accommodate the number of livestock or domestic fowl the barn is
designed to house or the farm is intending to expand to; and a description of
the manure management system to be used to accommodate agricultural
wastes.

(e) The Secretary may condition or deny a permit on the basis of odor,
noise, traffic, insects, flies, or other pests.

(f) Before granting a permit under this section, the Secretary shall make an
affirmative finding that the animal wastes generated by the construction or
expansion will be stored so as not to generate runoff from a 25-year, 24-hour
storm event and shall be disposed of, in accordance with the required
agricultural practices adopted under this chapter Required Agricultural
Practices administered by the Secretary of Natural Resources and current
U.S. Department of Agriculture nutrient management standards.

(g) A farm that is permitted under this section and that withdraws more
than 57,600 gallons of groundwater per day averaged over any 30 consecutive-
day period shall annually report estimated water use to the Secretary of
Agriculture, Food and Markets. The Secretary of Agriculture, Food and
Markets shall share information reported under this subsection with the
Agency of Natural Resources.

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

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

Sec. 8. REPEAL; MEDIUM FARM; SMALL FARM

(a) 6 V.S.A. chapter 215, subchapter 5 (animal waste permits for medium farms and small farms) shall be repealed on July 1, 2022.

(b) 6 V.S.A. chapter 215, subchapter 5A (small farm certification) shall be repealed on July 1, 2022.

(c) 6 V.S.A. chapter 215, subchapter 10 (agricultural water quality enforcement) shall be repealed on July 1, 2022.

*** Conforming Changes to Statute ***

Sec. 9. 6 V.S.A. § 366 is amended to read:

§ 366. TONNAGE FEES

(a) A person distributing fertilizer to a nonregistrant consumer in the State annually shall pay the following fees to the Secretary:

(1) a $150.00 minimum tonnage fee;

(2) $0.50 per ton of agricultural fertilizer distributed; and

(3) $30.00 per ton of nonagricultural fertilizer distributed.

***

(g)(1) All fees collected under subdivisions (a)(1) and (2) of this section shall be deposited in the special fund created by subsection 364(e) of this title and used in accordance with its provisions.
(2) All fees collected under subdivision (a)(3) of this section shall be deposited in the Agricultural Water Quality Special Fund created under section 4803 of this title and Clean Water Fund established under 10 V.S.A. § 1388.

Sec. 10. 6 V.S.A. § 563 is amended to read:

§ 563. HEMP; AN AGRICULTURAL PRODUCT

Industrial hemp is an agricultural product that may be grown as a crop produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter and section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial hemp shall be subject to and comply with the required agricultural practices adopted under section 4810 of this title Required Agricultural Practices.

Sec. 11. 6 V.S.A. § 918(b) is amended to read:

(b) The registrant shall pay an annual fee of $200.00 for each product registered, and $185.00 of that amount shall be deposited in the special fund created in section 929 of this title. Of the registration fees collected under this subsection, $15.00 of the amount collected shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title Clean Water Fund established under 10 V.S.A. § 1388. Of the registration fees collected under this subsection, $25.00 of the amount collected shall be used to offset the additional costs of inspection of economic poison products and to provide educational services, training, and technical assistance to pesticide
applicators, beekeepers, and the general public regarding the effects of pesticides on pollinators and the methods or best management practices to reduce the impacts of pesticides on pollinators. The annual registration year shall be from December 1 to November 30 of the following year.

Sec. 12. 10 V.S.A. § 905b(18) is amended to read:

(18) Study and investigate the wetlands of the State and cooperate with municipalities, the general public, other agencies, and the Board in collecting and compiling data relating to wetlands, propose to the Board specific wetlands to be designated as Class I wetlands, issue or deny permits pursuant to section 913 of this title and the rules authorized by this subdivision, issue wetland determinations pursuant to section 914 of this title, issue orders pursuant to section 1272 of this title, and in accordance with 3 V.S.A. chapter 25, adopt rules to address the following:

* * *

(C) The protection of wetlands that have been determined under subdivision (A) or (B) of this subdivision (18) to be significant, including rules that provide for the issuance or denial of permits and the issuance of wetland determinations by the Department under this chapter; provided, however, that the rules may only protect the values and functions sought to be preserved by the designation. The Department shall not adopt rules that restrain agricultural activities without the consent of the Secretary of Agriculture, Food and
Markets and shall not adopt rules that restrain silvicultural activities without
the consent of the Commissioner of Forests, Parks and Recreation.

Sec. 13. 10 V.S.A. § 1266b(d) is amended to read:

(d) Application of fertilizer to impervious surface; in proximity to water;
and seasonal restriction. No person shall apply any fertilizer:

(1) to an impervious surface. Fertilizer applied or released to an
impervious surface shall be immediately collected and returned to a container
for legal application. This subdivision shall not apply to activities regulated
under the required agricultural practices as those practices are defined by the
Secretary of Agriculture, Food and Markets under 6 V.S.A. § 4810 Required
Agricultural Practices;

(2) to turf before April 1 or after October 15 in any calendar year or at
any time when the ground is frozen; or

(3) to turf within 25 feet of a water of the State.

Sec. 14. 10 V.S.A. § 1386(e) is amended to read:

(e) Beginning on February 1, 2016, and annually thereafter, the Secretary,
after consultation with the Secretary of Agriculture, Food and Markets and the
Secretary of Transportation, shall submit to the House Committee on Natural
Resources, Fish, and Wildlife a summary of activities and measures of
progress of water quality ecosystem restoration programs. The provisions of
2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to
be made under this subsection.

Sec. 15. 10 V.S.A. § 1387 is amended to read:

§ 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

(a)(1) The State has committed to implementing a long-term Clean Water
Initiative to provide mechanisms, staffing, and financing necessary to achieve
and maintain compliance with the Vermont Water Quality Standards for all
State waters.

(2) Success in implementing the Clean Water Initiative will depend
largely on providing sustained and adequate funding to support the
implementation of all of the following:

(A) the requirements of 2015 Acts and Resolves No. 64;

(B) federal or State required cleanup plans for individual waters or
water segments, such as total maximum daily load plans;

(C) the Agency of Natural Resources’ Combined Sewer Overflow
Rule;

(D) the operations of clean water service providers under chapter 37,
subchapter 5 of this title; and

(E) the permanent protection of land and waters from future
development and impairment through conservation and water quality projects
funded by the Vermont Housing and Conservation Trust Fund authorized by chapter 15 of this title.

(3) To ensure success in implementing the Clean Water Initiative, the State should commit to funding the Clean Water Initiative in a manner that ensures the maintenance of effort and that provides an annual appropriation for clean water programs in a range of $50 million to $60 million as adjusted for inflation over the duration of the Initiative.

(4) To avoid the future impairment and degradation of the State’s waters, the State should commit to continued funding for the protection of land and waters through agricultural and natural resource conservation, including through permanent easements and fee acquisition.

(b) The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) assist the State in the implementation of the Clean Water Initiative;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or the Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and
(3) provide funding to clean water service providers to meet the obligations of chapter 37, subchapter 5 of this title.

Sec. 16. 10 V.S.A. § 1389(b) is amended to read:

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) [Repealed.]

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

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed by the Governor.

Sec. 17. 10 V.S.A. § 1389b is amended to read:

§ 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate
Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forestry, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources, Fish, and Wildlife a program audit of the Clean Water Fund. The audit shall include:

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

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

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

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; [Repealed.]

(5) an assessment of the capacity of the Department of Environmental Conservation to effectively administer and enforce agricultural water quality requirements on farms in the State; and

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

* * *
Sec. 18. 10 V.S.A. § 1446(b) is amended to read:

(b) Exemptions. The following activities in a protected shoreland area do not require a permit under section 1444 or 1445 of this title:

* * *

(7) Agricultural activities. Agricultural activities on land in agricultural production on July 1, 2014, provided that:

(A) no impervious surface shall be created or expanded in a protected shoreland area except: when no alternative outside the protected shoreland area exists, the construction of a best management practice is necessary to abate an agricultural water quality issue, and the best management practice is approved by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215 and

(B) the agricultural activities within the protected shoreland area comply with the rules adopted by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215 Secretary of Natural Resources under chapter 47, subchapter 2B of this title regarding agricultural water quality, including required agricultural practices, agricultural water quality permits, Required Agricultural Practices, best management practices, medium and small farm operation, and large farm operation.

* * *
Sec. 19. 10 V.S.A. § 1671(8) is amended to read:

(8) “Required agricultural practices Agricultural Practices” shall be as defined by the Secretary of Agriculture, Food and Markets under 6 V.S.A. § 4810 Natural Resources under chapter 47 of this title.

Sec. 20. 10 V.S.A. § 1679(c) is amended to read:

(c) Rules adopted by the Secretary under subsection (a) of this section shall include provisions for the identification of agricultural lands, as defined in 32 V.S.A. § 3752, within public water source protection areas and for ensuring that required agricultural practices farming, as that term is defined in section 6001 of this title, on those lands are is not unduly restricted by the development of the public water source protection area without the consent of the owner of those agricultural lands. Prior to the adoption of rules under this subsection, the Secretary shall consult with the Secretary of Agriculture, Food and Markets and, if possible, obtain concurrence of the Secretary of Agriculture, Food and Markets. If the Secretary of Agriculture, Food and Markets does not concur, the Secretary of Agriculture, Food and Markets shall state any objections in writing; and those objections shall be included by the Secretary in filing the final proposed rule with the Legislative Committee on Administrative Rules.
Sec. 21. 10 V.S.A. § 6001(3)(E) is amended to read:

(E) When development is proposed to occur on a parcel or tract of land that is devoted to farming activity as defined in subdivision (22) of this section, only those portions of the parcel or the tract that support the development shall be subject to regulation under this chapter. Permits issued under this chapter shall not impose conditions on other portions of the parcel or tract of land which do not support the development and that restrict or conflict with required agricultural practices adopted by the Secretary of Agriculture, Food and Markets the Required Agricultural Practices. Any portion of the tract that is used to produce compost ingredients for a composting facility located elsewhere on the tract shall not constitute land which supports the development unless it is also used for some other purpose that supports the development.

Sec. 22. 24 V.S.A. § 4412(11) is amended to read:

(11) Accessory on-farm businesses. No bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(A) Definitions. As used in this subdivision (11):

(i) “Accessory on-farm business” means activity that is accessory to a farm and comprises one or both of the following:

(I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from
qualifying products that are principally produced on the farm at which the business is located.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such The events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), “farm stay” means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such the activities.

(ii) “Farm” means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee’s own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iii) “Farming” shall have the same meaning as in 10 V.S.A. § 6001.
(iv) “Qualifying product” means a product that is wholly:

(I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;

(II) livestock or cultured fish or a product thereof;

(III) a product of poultry, bees, an orchard, or fiber crops;

(IV) a commodity otherwise grown or raised on a farm; or

(V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

(v) “RAP rules” means the rules on required agricultural practices Required Agricultural Practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2 administered and amended by the Secretary of Natural Resources under 10 V.S.A. chapter 47.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision (11), the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may take place inside new or existing structures or on the land.
(D) Review; permit. Activities of an accessory on-farm business that are not exempt under section 4413 of this title may be subject to site plan review pursuant to section 4416 of this title. A bylaw may require that such activities meet the same performance standards otherwise adopted in the bylaw for similar commercial uses pursuant to subdivision 4414(5) of this title.

(E) Less restrictive. A municipality may adopt a bylaw concerning accessory on-farm businesses that is less restrictive than the requirement of this subdivision (11).

(F) Notification; training. The Secretary of Agriculture, Food and Markets Natural Resources shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

Sec. 2. 24 V.S.A. § 4413(d)(1) is amended to read:

(d)(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices Required Agricultural Practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets Natural Resources;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in
compliance with the Acceptable Management Practices for Maintaining Water
Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
Forests, Parks and Recreation; or

(C) forestry operations.

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

(5) “Development” means, for the purposes of determining whether a
land use change tax is to be assessed under section 3757 of this chapter, the
construction of any building, road, or other structure, or any mining,
excavation, or landfill activity. “Development” also means the subdivision of
a parcel of land into two or more parcels, regardless of whether a change in use
actually occurs, where one or more of the resulting parcels contains less than
25 acres each; but if subdivision is solely the result of a transfer to one or more
of a spouse, ex-spouse in a divorce settlement, parent, grandparent, child,
grandchild, niece, nephew, or sibling of the transferor, or to the surviving
spouse of any of the foregoing, then “development” shall not apply to any
portion of the newly created parcel or parcels that qualify for enrollment and
for which, within 30 days following the transfer, each transferee or transferor
applies for reenrollment in the use value appraisal program. “Development”
also means the cutting of timber on property appraised under this chapter at use
value in a manner contrary to a forest or conservation management plan as
provided for in subsection 3755(b) of this title during the remaining term of the
plan, or contrary to the minimum acceptable standards for forest management
if the plan has expired; or a change in the parcel or use of the parcel in
violation of the conservation management standards established by the
Commissioner of Forests, Parks and Recreation. “Development” also means
notification of the Director by the Secretary of Agriculture, Food and Markets
Natural Resources under section 3756 of this title that the owner or operator of
agricultural land or a farm building is violating the water quality requirements
of 6 V.S.A. chapter 215 10 V.S.A. chapter 47 or is failing to comply with the
terms of an order issued under 6 V.S.A. chapter 215, subchapter 10 10 V.S.A.
chapters 201 and 211. The term “development” shall not include the
construction, reconstruction, structural alteration, relocation, or enlargement of
any building, road, or other structure for farming, logging, forestry, or
conservation purposes, but shall include the subsequent commencement of a
use of that building, road, or structure for other than farming, logging, or
forestry purposes.

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

(i)(1) After providing 30 days’ notice to the owner, the Director shall
remove from use value appraisal an entire parcel of managed forestland and
notify the owner when the Commissioner of Forests, Parks and Recreation has
not received a required management activity report or has received an adverse
inspection report, unless the lack of conformance consists solely of the failure
to make prescribed planned cutting. In that case, the Director may delay
removal from use value appraisal for a period of one year at a time to allow
time to bring the parcel into conformance with the plan.

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

(i) found, after administrative hearing, or contested judicial
hearing or motion, to be in violation of water quality requirements established
under 6 V.S.A. chapter 215, 10 V.S.A. chapter 47, or any rules adopted or any
permit or certification issued under 6 V.S.A. chapter 215, 10 V.S.A. chapter 47;

or

(ii) who is not in compliance with the terms of an administrative
or court order issued under 6 V.S.A. chapter 215, subchapter 10
chapters 201 and 211 to remedy a violation of the requirements of 6 V.S.A.
chapter 215, 10 V.S.A. chapter 47 or any rules adopted or any permit or
certification issued under 6 V.S.A. chapter 215, 10 V.S.A. chapter 47.

(B) The Director shall notify the owner that agricultural land or a
farm building has been removed from use value appraisal by mailing
notification of removal to the owner or operator’s last and usual place of
abode. After removal of agricultural land or a farm building from use value
appraisal under this section, the Director shall not consider a new application
for use value appraisal for the agricultural land or farm building until the
Secretary of Agriculture, Food and Markets Natural Resources submits to the
Director a certification that the owner or operator of the agricultural land or
farm building is complying with the water quality requirements of 6 V.S.A.
chapter 215 10 V.S.A. chapter 47 or an order issued under 6 V.S.A. chapter
215 10 V.S.A. chapters 201 and 211. After submission of a certification by the
Secretary of Agriculture, Food and Markets Natural Resources, an owner or
operator shall be eligible to apply for enrollment of the agricultural land or
farm building according to the requirements of this section.

Sec. 26. 32 V.S.A. § 3758(e) is amended to read:

(e) When the Director removes agricultural land or a farm building
pursuant to notification from the Secretary of Agriculture, Food and Markets
Natural Resources under section 3756 of this title, the exclusive right of appeal
shall be as provided in 6 V.S.A. § 4996(a) 10 V.S.A. chapter 220.

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

Sec. 27. 3 V.S.A. § 2822(j) is amended to read:

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

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

(A) Application review fee.

* * *

(v) Agricultural water quality permit

$500.00

* * *

(B) Annual operating fee.

(vi) Agricultural water quality permit

(I) Large farm

$2,500.00

(II) Medium farm

$1,500.00

* * *

* * * Transition; Implementation * * *

Sec. 28. TRANSITION; IMPLEMENTATION

(a) Transfer dates. The authority to administer and enforce water quality requirements on farms in Vermont under 10 V.S.A. chapter 47 is transferred from the Secretary of Agriculture, Food and Markets to the Secretary of Natural Resources on January 1, 2022. All farms that require an agricultural water quality permit under 10 V.S.A. § 1324 shall be permitted under
10 V.S.A. chapter 47 on or before January 1, 2023. All small farms required to
certify compliance with the Required Agricultural Practices under 10 V.S.A.
§ 1325 shall submit certification on or before January 1, 2025 and every three
years thereafter.

(b) Enforcement actions. All pending enforcement actions of the Secretary
of Agriculture, Food and Markets under 6 V.S.A. chapter 215 shall be
transferred to the Secretary of Natural Resources on January 1, 2022 for
enforcement under 10 V.S.A. chapters 201 and 211. A previous enforcement
action of the Secretary of Agriculture, Food and Markets against a farm under
6 V.S.A. chapter 215 shall not preclude or prevent the Secretary of Natural
Resources from enforcing violations of 10 V.S.A. chapter 47 that occur on or
after January 1, 2022.

(c) Budget and staffing. On or before January 1, 2021, the Secretary of
Natural Resources, after consultation with the Secretary of Agriculture, Food
and Markets, shall submit to the House and Senate Committees on
Appropriations a proposed transfer of sufficient appropriations and staffing
from the Agency of Agriculture, Food and Markets to the Agency of Natural
Resources for the purposes of implementing and enforcing on or before
January 1, 2022 the agricultural water quality requirements of 10 V.S.A.
chapter 47, subchapter 2B.
Sec. 29. STATUTORY REVISION; AGRICULTURAL PRACTICES

In its statutory revision capacity under 2 V.S.A. § 424, the Office of Legislative Council is authorized, where appropriate, to replace the words “Secretary of Agriculture, Food and Markets” or “Agency of Agriculture, Food and Markets” with the appropriate words or phrase to reflect the transfer of the agricultural nonpoint source pollution program from the Agency of Agriculture, Food and Markets to the Agency of Natural Resources under 10 V.S.A. chapter 47, subchapter 2B.

Sec. 30. EFFECTIVE DATES

(a) This section and Secs. 1 (purpose), 28 (transition), and 29 (statutory revision) shall take effect on passage.

(b) All other sections shall take effect July 1, 2022.