

1 S.315

2 Introduced by Senator Champion

3 Referred to Committee on

4 Date:

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

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

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

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

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

16 Sec. 1. PURPOSE; AGENCY OF NATURAL RESOURCES' AUTHORITY  
17 OVER AGRICULTURAL WATER QUALITY PROGRAM

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

1 10 V.S.A. chapter 47 and other statutes that the Agency of Natural Resources  
2 administers and enforces.

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

4 Subchapter 2B. Agricultural Water Quality Program

5 § 1320. PURPOSE

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

11 § 1321. DEFINITIONS

12 As used in this subchapter:

13 (1) “Agricultural waste” means material originating or emanating from a  
14 farm that is determined by the Secretary of Natural Resources to be harmful to  
15 the waters of the State, including: sediments; minerals, including heavy  
16 metals; plant nutrients; pesticides; organic wastes, including livestock waste,  
17 animal mortalities, compost, feed and crop debris; waste oils; pathogenic  
18 bacteria and viruses; thermal pollution; silage runoff; untreated milk house  
19 waste; and any other farm waste as the term “waste” is defined in section 1251  
20 of this title.

1           (2) “Animal feeding operation (AFO)” means a lot or facility where  
2           livestock or domestic fowl have been, are, or will be stabled or confined and  
3           fed or maintained for a total of 45 days or more in any 12-month period, and  
4           crops, vegetation, or forage growth are not sustained in the normal growing  
5           season over any portion of the lot or facility. Two or more individual farms  
6           qualifying as an AFO that are under common ownership and that adjoin each  
7           other or use a common area or system for the disposal of waste shall be  
8           considered to be a single AFO if the combined number of livestock or  
9           domestic fowl on the combined farm qualifies as a large farm under  
10           subdivision (7) of this section or as a medium farm as defined in subdivision  
11           (10) of this section.

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

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

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

1 use of the leased lands and whether the lessee manages the land for farming  
2 during the leased period.

3 (6) “Farming” means:

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

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

8 (C) the operation of greenhouses;

9 (D) the production of maple syrup;

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

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

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

17 (7) “Large farm” means an AFO that houses 700 or more mature dairy  
18 animals, 1,000 or more cattle or cow and calf pairs, 1,000 or more veal calves,  
19 2,500 or more swine weighing over 55 pounds, 10,000 or more swine  
20 weighing 55 pounds or less, 500 or more horses, 10,000 or more sheep or  
21 lambs, 55,000 or more turkeys, 30,000 or more laying hens or broilers with a

1 liquid manure handling system, 82,000 or more laying hens without a liquid  
2 manure handling system, 125,000 or more chickens other than laying hens  
3 without a liquid manure handling system, 5,000 or more ducks with a liquid  
4 manure handling system, 30,000 or more ducks without a liquid manure  
5 handling system, or other livestock types, combinations, or numbers as  
6 designated by the Secretary by rule.

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

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

15 (10) “Medium farm” means an AFO that houses 200 to 699 mature  
16 dairy animals, 300 to 999 cattle or cow and calf pairs, 300 to 999 veal calves,  
17 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing  
18 55 pounds or less, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to  
19 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure  
20 handling system, 25,000 to 81,999 laying hens without a liquid manure  
21 handling system, 37,500 to 124,999 chickens other than laying hens without a

1 liquid manure handling system, 1,500 to 4,999 ducks with a liquid manure  
2 handling system, 10,000 to 29,999 ducks without a liquid manure handling  
3 system, or other livestock types, combinations, or numbers as designated by  
4 the Secretary by rule.

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

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

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

8 (B) that house not more than 199 mature dairy animals, 299 cattle or  
9 cow and calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999  
10 swine weighing 55 pounds or less, 149 horses, 2,999 sheep or lambs, 16,499  
11 turkeys, 8,999 laying hens or broilers with a liquid manure handling system,  
12 24,999 laying hens without a liquid manure handling system, 37,499 chickens  
13 other than laying hens without a liquid manure handling system, 1,499 ducks  
14 with a liquid manure handling system, or 9,999 ducks without a liquid manure  
15 handling system; and

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

18 (ii) that are used for the preparation, tilling, fertilization, planting,  
19 protection, irrigation, and harvesting of crops for sale.

1     § 1322. AUTHORITY TO ADMINISTER AGRICULTURAL NONPOINT  
2             SOURCE CONTROL RULES

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

11            (b) Amendment of existing rules. The Secretary of Natural Resources may  
12            amend, repeal, or replace the Large Farm Rules, Medium Farm Rules, small  
13            farm certification, or RAPs at any time in accordance with the requirements of  
14            3 V.S.A. chapter 25.

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

18     § 1323. AGRICULTURAL WATER QUALITY PERMIT; ISSUANCE

19            (a) Agricultural water quality permit required; large farms and medium  
20            farms. No person shall operate a large farm or a medium farm in the State  
21            without an agricultural water quality permit from the Secretary.

1        (b) Permit issuance. The Secretary may issue an individual permit or  
2        general permit for a large farm or medium farm required to obtain a permit  
3        under subsection (a) of this section. A permit issued under this section shall be  
4        issued according to the procedural requirements of subsection 1263(b) of this  
5        title.

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

10        § 1324. AGRICULTURAL WATER QUALITY PERMIT REQUIREMENTS

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

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

17                (2) adopt and implement a field-by-field nutrient management plan  
18                consistent with the requirements of the U.S. Department of Agriculture's  
19                Natural Resource Conservation Service Nutrient Management Practice Code  
20                590 or other equivalent standards approved by the Secretary;



1           (3) verify that there will be no unpermitted discharge from a large farm  
2           or medium farm to a water of the State; and

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

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

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

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

13          § 1325. SMALL FARM CERTIFICATION; INSPECTION

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

18          (b) Certification or permit due to water quality threat. The Secretary may  
19          require any person who owns or operates a farm to obtain a permit or submit a  
20          small farm certification under this chapter if the person is not required to  
21          obtain a permit or submit a certification under this chapter and the Secretary

1 determines that the farm poses a threat of discharge to a water of the State or  
2 presents a threat of contamination to groundwater. The Secretary may waive a  
3 permit or small farm certification required under this subsection upon a  
4 determination that the farm no longer poses a threat of discharge to a water of  
5 the State or no longer presents a threat of contamination to groundwater.

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

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

19 (e)(1) Identification; ranking of water quality needs. During an inspection  
20 of a small farm under this section, the Secretary shall identify areas where the  
21 farm could benefit from capital, structural, or technical assistance in order to

1 improve or come into compliance with the Required Agricultural Practices and  
2 any applicable State water quality permit or certification required under this  
3 chapter.

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

10 § 1326. BEST MANAGEMENT PRACTICES

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

19 (b) The Secretary of Natural Resources may require soil monitoring or  
20 innovative manure management as a BMP under this subsection. Soil  
21 monitoring or innovative manure management implemented as a BMP shall be

1 eligible for State assistance under the Clean Water Fund established under  
2 section 1388 of this title.

3 § 1327. SEASONAL APPLICATION OF MANURE

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

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

14 (c) Seasonal exemption. The Secretary of Natural Resources may by rule  
15 adopt or amend a process under which the Secretary may authorize an  
16 exemption to the prohibition on the application of manure to land in the State  
17 between December 15 and April 1 of any calendar year or during any period  
18 established under subsection (b) of this section when manure is prohibited  
19 from application. Any process established for the issuance of an exemption  
20 under the Required Agricultural Practices may authorize land application of

1 manure on a weekly, monthly, or seasonal basis or in authorized regions, areas,  
2 or fields in the State, provided that any exemption shall:

3 (1) prohibit application of manure:

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

6 (B) in nonharvested permanent vegetative buffers;

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

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

12 (E) to fields exceeding tolerable soil loss; and

13 (F) to saturated soils;

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

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

18 (4) establish the maximum tons of manure that may be applied per acre  
19 during any one application.

1     § 1328. AGRICULTURE WATER QUALITY TRAINING

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

6           (1) the prevention of discharges;

7           (2) the mitigation and management of stormwater runoff;

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

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

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

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

18           (b) Training hours required. Large Farm Operations, Medium Farm  
19    Operations, and Certified Small Farm Operations shall obtain four hours of  
20    approved training at least once every five years. This requirement will  
21    commence upon notice from the Secretary.

1       (c) Approved training entities. The Secretary may approve training offered  
2       by other entities upon request of the entity providing the training. All requests  
3       for approval to train shall be provided to the Secretary at least 30 days prior to  
4       the scheduled training dates. The entity will be required to submit information  
5       about the training and attendees in a manner requested by the Secretary.

6       § 1329. CUSTOM APPLICATOR CERTIFICATION

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

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

19       (c) Demonstrated competency. Custom applicators shall demonstrate  
20       competency in methods and techniques used to minimize runoff from  
21       application sites, identification of weather or soil conditions that may increase

1 risk of field runoff, recordkeeping, and other information deemed pertinent by  
2 the Secretary.

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

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

17 (f) Recordkeeping. Certified custom applicators shall maintain records of  
18 the amount of manure or agricultural waste applied by farm and field for a  
19 period of five years and provide those records to the Agency of Natural  
20 Resources upon reasonable request.



1 Sec. 3. 10 V.S.A. § 1259 is amended to read:

2 § 1259. PROHIBITIONS

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

13 \* \* \*

14 (f) The provisions of subsections (c), (d), and (e) of this section shall not  
15 regulate ~~required agricultural practices, as adopted by rule by the Secretary of~~  
16 ~~Agriculture, Food and Markets, or accepted silvicultural practices, as defined~~  
17 by the Commissioner of Forests, Parks and Recreation, including practices  
18 ~~which that are in compliance with the Acceptable Management Practices for~~  
19 Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the  
20 Commissioner of Forests, Parks and Recreation; ~~nor shall these provisions~~  
21 ~~regulate discharges from concentrated animal feeding operations that require a~~

1 ~~permit under section 1263 of this title; nor shall those provisions prohibit~~  
2 ~~stormwater runoff or the discharge of nonpolluting wastes, as defined by the~~  
3 ~~Secretary.~~

4 \* \* \*

5 ~~(i) The Secretary of Natural Resources, to the extent compatible with~~  
6 ~~federal requirements, shall delegate to the Secretary of Agriculture, Food and~~  
7 ~~Markets the State agricultural non-point source pollution control program~~  
8 ~~planning, implementation, and regulation. A memorandum of understanding~~  
9 ~~shall be adopted for this purpose, which shall address implementation grants,~~  
10 ~~the distribution of federal program assistance, and the development of land use~~  
11 ~~performance standards. Prior to executing the memorandum, the Secretary of~~  
12 ~~State shall arrange for two formal publications of information relating to the~~  
13 ~~proposed memorandum. The information shall consist of a summary of the~~  
14 ~~proposal; the name, telephone number, and address of a person able to answer~~  
15 ~~questions and receive comments on the proposal; and the deadline for~~  
16 ~~receiving comments. Publication shall be subject to the provisions of 3 V.S.A.~~  
17 ~~§ 839(d), (e), and (g), relating to the publication of administrative rules. The~~  
18 ~~proposed memorandum of understanding shall be available for 30 days after~~  
19 ~~the final date of publication for public review and comment prior to being~~  
20 ~~executed by the Secretary of Natural Resources and the Secretary of~~  
21 ~~Agriculture, Food and Markets. The Secretary of Natural Resources and the~~

1 ~~Secretary of Agriculture, Food and Markets annually shall review the~~  
2 ~~memorandum of understanding to ensure compliance with the requirements of~~  
3 ~~the Clean Water Act and the provisions of section 1258 of this title. If the~~  
4 ~~memorandum is substantially revised, it first shall be noticed in the same~~  
5 ~~manner that applies to the initial memorandum. Actions by the Secretary of~~  
6 ~~Agriculture, Food and Markets under this section shall be consistent with the~~  
7 ~~water quality standards and water pollution control requirements of chapter 47~~  
8 ~~of this title and the federal Clean Water Act as amended~~ The Secretary of  
9 Natural Resources shall implement and enforce an agricultural nonpoint source  
10 pollution program in the State. The Secretary of Agriculture, Food and  
11 Markets shall administer a financial assistance program to distribute to farmers  
12 federal and State financing to assist farmers in complying with the State  
13 requirements for agricultural nonpoint source pollution control.

14 \* \* \*

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

16 (d) Exemptions.

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

18 (A) Stormwater runoff from farms in compliance with ~~agricultural~~  
19 ~~practices adopted by the Secretary of Agriculture, Food and Markets, provided~~  
20 ~~that this exemption shall not apply to construction stormwater permits required~~

1 ~~by subdivision (c)(4) of this section~~ the agricultural water quality requirements  
2 of subchapter 2B of this chapter.

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

5 (C) Stormwater runoff from accepted silvicultural practices, as  
6 defined by the Commissioner of Forests, Parks and Recreation, including  
7 practices ~~which~~ that are in compliance with the Acceptable Management  
8 Practices for Maintaining Water Quality on Logging Jobs in Vermont, as  
9 adopted by the Commissioner of Forests, Parks and Recreation.

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

11 \* \* \*

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

13 ~~(d) Upon the request of the Secretary of Agriculture, Food and Markets, the~~  
14 ~~Secretary may take action under this chapter to enforce the agricultural water~~  
15 ~~quality requirements of, rules adopted under, and permits and certifications~~  
16 ~~issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and~~  
17 ~~the Secretary of Agriculture, Food and Markets shall enter into a memorandum~~  
18 ~~of understanding to implement this subsection. [Repealed.]~~

1           \* \* \* Agency of Agriculture, Food and Markets; Repeal of Regulatory  
2                                   Authority Over Agricultural Water Quality \* \* \*

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

4                                   Subchapter 1. General Provisions

5           § 4801. ~~PURPOSE; STATE POLICY~~

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

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

21                   ~~(2) Officials who administer the provisions of this chapter:~~



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~~§ 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~~

1 ~~waters of the State. These agricultural land use practices shall be created in~~  
2 ~~two categories, pursuant to subsections (b) and (c) of this section.~~

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



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

12 ~~(e) Best Management Practices. Best management practices (BMPs) are~~  
13 ~~site-specific on-farm conservation practices implemented in order to address~~  
14 ~~the potential for agricultural pollutants to enter the waters of the State. The~~  
15 ~~Secretary may require any person engaged in farming to implement a BMP.~~  
16 ~~When requiring implementation of a BMP, the Secretary shall inform a farmer~~  
17 ~~of financial resources available from State or federal sources, private~~  
18 ~~foundations, public charities, or other sources, including funding from the~~  
19 ~~Clean Water Fund established under 10 V.S.A. § 1388, to assist the person in~~  
20 ~~implementing BMPs and complying with the requirements of this chapter.~~  
21 ~~BMPs shall be practical and cost effective to implement, as determined by the~~

1 ~~Secretary, and shall be designed to achieve compliance with the requirements~~  
2 ~~of this chapter. The Secretary may require soil monitoring or innovative~~  
3 ~~manure management as a BMP under this subsection. Soil monitoring or~~  
4 ~~innovative manure management implemented as a BMP shall be eligible for~~  
5 ~~State assistance under the Clean Water Fund established under 10 V.S.A.~~  
6 ~~chapter 47, subchapter 7. If a perennial buffer of trees or other woody~~  
7 ~~vegetation is required as a BMP, the Secretary shall pay the farmer for a first~~  
8 ~~priority easement on the land on which the buffer is located.~~

9 ~~(d) Cooperation and coordination. The Secretary of Agriculture, Food and~~  
10 ~~Markets shall coordinate with the Secretary of Natural Resources in~~  
11 ~~implementing and enforcing programs, plans, and practices developed for~~  
12 ~~reducing and eliminating agricultural non point source pollutants and~~  
13 ~~discharges from concentrated animal feeding operations. On or before July 1,~~  
14 ~~2016, the Secretary of Agriculture, Food and Markets and the Secretary of~~  
15 ~~Natural Resources shall revise the memorandum of understanding for the non-~~  
16 ~~point program describing program administration, grant negotiation, grant~~  
17 ~~sharing, and how they will coordinate watershed planning activities to comply~~  
18 ~~with Pub. L. No. 92-500. The memorandum of understanding shall describe~~  
19 ~~how the agencies will implement the antidegradation implementation policy,~~  
20 ~~including how the agencies will apply the antidegradation implementation~~  
21 ~~policy to new sources of agricultural non point source pollutants. The~~

1 ~~Secretary of Agriculture, Food and Markets and the Secretary of Natural~~  
2 ~~Resources shall also develop a memorandum of understanding according to the~~  
3 ~~public notice and comment process of 10 V.S.A. § 1259(i) regarding the~~  
4 ~~implementation of the federal Concentrated Animal Feeding Operation~~  
5 ~~Program and the relationship between the requirements of the federal Program~~  
6 ~~and the State agricultural water quality requirements for large, medium, and~~  
7 ~~small farms under this chapter. The memorandum of understanding shall~~  
8 ~~describe Program administration, permit issuance, an appellate process, and~~  
9 ~~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 and the Secretary of Natural~~  
14 ~~Resources shall be consistent with the Secretary's duties, established under the~~  
15 ~~provisions of 10 V.S.A. § 1258(b), to comply with Pub. L. No. 92-500. The~~  
16 ~~Secretary of Natural Resources shall be the State lead person in applying for~~  
17 ~~federal funds under Pub. L. No. 92-500, but shall consult with the Secretary of~~  
18 ~~Agriculture, Food and Markets during the process. The agricultural non point~~  
19 ~~source program may compete with other programs for competitive watershed~~  
20 ~~projects funded from federal funds. The Secretary of Agriculture, Food and~~  
21 ~~Markets shall be represented in reviewing these projects for funding. Actions~~

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

19 [Repealed.]

1     § 4810a. ~~REQUIRED AGRICULTURAL PRACTICES; REVISION~~

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

7           ~~(1) Specify those farms that:~~

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

12          ~~(B) shall be subject to the required agricultural practices, but shall not~~  
13    ~~be required to comply with small farm certification requirements under section~~  
14    ~~4871 of this title.~~

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

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

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

1           ~~(B) Except as authorized under subdivision (C) of this subdivision~~  
2           ~~(2), manure stacking or piling sites, fertilizer storage, or other nutrient storage~~  
3           ~~shall not be located within 200 feet of a private well or within 200 feet of a~~  
4           ~~water of the State.~~

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

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

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

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.~~

20          ~~(4) Establish standards for nutrient management on farms, including:~~

1           ~~(A) required nutrient management planning on all farms that manage~~  
2           ~~agricultural wastes; and~~

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

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

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

1           ~~(B) Establish standards for site-specific vegetative buffers that~~  
2           ~~adequately address water quality needs based on consideration of soil type,~~  
3           ~~slope, crop type, proximity to water, and other relevant factors.~~

4           ~~(7) [Repealed.]~~

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

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

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

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

19           ~~(b) The Secretary of Agriculture, Food and Markets shall maintain the~~  
20           ~~required agricultural practices in order to include requirements for reducing~~  
21           ~~nutrient contribution to waters of the State from subsurface tile drainage.~~



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

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

10 § 4811. POWERS OF SECRETARY

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

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

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

18 (3) ~~Enter any lands, public or private, and review and copy any land~~  
19 ~~management records as may be necessary to carry out the provisions of this~~  
20 ~~chapter. [Repealed.]~~



1 ~~the agricultural non-point source waste component of each basin plan. Any~~  
2 ~~person with an interest in the agricultural non-point source component of the~~  
3 ~~basin planning process may petition the Secretary of Agriculture, Food and~~  
4 ~~Markets to require, and the Secretary may require, best management practices~~  
5 ~~in the individual basin beyond required agricultural practices adopted by rule,~~  
6 ~~in order to achieve compliance with the water quality goals in 10 V.S.A. §~~  
7 ~~1250 and any duly adopted basin plan. The Secretary of Agriculture, Food and~~  
8 ~~Markets shall hold a public hearing within 60 days and shall issue a timely~~  
9 ~~written decision that sets forth the facts and reasons supporting the decision.~~

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

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

19 \* \* \*

20 § 4815. WASTE STORAGE FACILITY

21 \* \* \*

1 (c) As used in this section, ~~“waste;~~

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

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

7 § 4816. ~~SEASONAL APPLICATION OF MANURE~~

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

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

19 ~~(c) Seasonal exemption. The Secretary of Agriculture, Food and Markets~~  
20 ~~shall amend the required agricultural practices by rule in order to establish a~~  
21 ~~process under which the Secretary may authorize an exemption to the~~

1 ~~prohibition on the application of manure to land in the State between~~  
2 ~~December 15 and April 1 of any calendar year or during any period established~~  
3 ~~under subsection (b) of this section when manure is prohibited from~~  
4 ~~application. Any process established for the issuance of an exemption under~~  
5 ~~the required agricultural practices may authorize land application of manure on~~  
6 ~~a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in~~  
7 ~~the State, provided that any exemption shall:~~

8 ~~(1) prohibit application of manure:~~

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

11 ~~(B) in nonharvested permanent vegetative buffers;~~

12 ~~(C) in a nonfarmed wetland, as that term is defined in 10 V.S.A. §~~  
13 ~~902(5);~~

14 ~~(D) within 50 feet of a potable water supply, as that term is defined in~~  
15 ~~10 V.S.A. § 1972(6);~~

16 ~~(E) to fields exceeding tolerable soil loss; and~~

17 ~~(F) to saturated soils;~~

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

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



1 River Basin, or the Hudson River Basin as these boundaries are defined by the  
2 State Water Quality Plan prepared by the Agency of Natural Resources.

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

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

12 \* \* \*

13 § 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES

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

1 Service cost share assistance. Application for a State assistance grant shall be  
2 made in the manner prescribed by the Secretary.

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

18 (c) The owner or operator of a farm with a waste storage facility may apply  
19 in writing to the Secretary of Agriculture, Food and Markets for a State  
20 assistance grant for the costs of complying with the U.S. Department of  
21 ~~Agriculture~~ Agriculture's Natural Resources Conservation Service



1 requirements for inspection of a waste storage facility. ~~Such~~ The grants shall  
2 not exceed 90 percent of the cost of the inspection of the waste storage facility.  
3 Application for a State assistance grant shall be made in the manner prescribed  
4 by the Secretary.

5 § 4827. NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS

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

19 \* \* \*

20 (e) ~~If the Secretary or the applicable U.S. Department of Agriculture~~  
21 ~~conservation programs lack adequate funds necessary for the financial~~

1 ~~assistance required by subsection (a) of this section, the requirement to develop~~  
2 ~~and implement a nutrient management plan under State statute or State~~  
3 ~~regulation shall be suspended until adequate funding becomes available.~~  
4 ~~Suspension of a State required nutrient management plan does not relieve an~~  
5 ~~owner or operator of a farm permitted under section 4858 or 4851 of this title~~  
6 ~~of the remaining requirements of a State permit, including discharge standards,~~  
7 ~~groundwater protection, and land application of manure. This subsection does~~  
8 ~~not apply to farms permitted under 10 V.S.A. § 1263. [Repealed.]~~

9 \* \* \*

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

11 § 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

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

1 livestock or domestic fowl production at its existing capacity. ~~The Secretary of~~  
2 ~~Agriculture, Food and Markets, in consultation with the Secretary of Natural~~  
3 ~~Resources, shall review any application for a permit under this section with~~  
4 ~~regard to water quality impacts and, prior to approval of a permit under this~~  
5 ~~subsection, shall issue a written determination regarding whether the applicant~~  
6 ~~has established that there will be no unpermitted discharge to waters of the~~  
7 ~~State pursuant to the federal regulations for concentrated animal feeding~~  
8 ~~operations. If upon review of an application for a permit under this subsection,~~  
9 ~~the Secretary of Agriculture, Food and Markets determines that the permit~~  
10 ~~applicant may be discharging to waters of the State, the Secretary of~~  
11 ~~Agriculture, Food and Markets and the Secretary of Natural Resources shall~~  
12 ~~respond to the discharge in accordance with the memorandum of~~  
13 ~~understanding regarding concentrated animal feeding operations under section~~  
14 ~~4810 of this title. The Secretary of Natural Resources may require a large farm~~  
15 ~~to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for~~  
16 ~~concentrated animal feeding operations .~~

17 (b) A person shall apply for a permit in order to operate a farm ~~which~~ that  
18 exceeds 700 mature dairy animals, 1,000 cattle or ~~cow/calf~~ cow and calf pairs,  
19 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine  
20 weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs,  
21 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling

1 system, 82,000 laying hens without a liquid manure handling system,  
2 125,000 chickens other than laying hens without a liquid manure handling  
3 system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if  
4 the livestock or domestic fowl are in a barn or adjacent barns owned by the  
5 same person, or if the barns share a common border or have a common waste  
6 disposal system. In order to receive this permit, the person shall demonstrate  
7 to the Secretary that the farm has an adequately sized manure management  
8 system to accommodate the wastes generated and a nutrient management plan  
9 to dispose of wastes in accordance with ~~required agricultural practices adopted~~  
10 ~~under this chapter~~ Required Agricultural Practices administered by the  
11 Secretary of Natural Resources and current U.S. Department of Agriculture  
12 nutrient management standards.

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

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

1 the manure management system to be used to accommodate agricultural  
2 wastes.

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

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

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

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

20 (i) ~~A person required to obtain a permit under this section shall submit an~~  
21 ~~annual operating fee of \$2,500.00 to the Secretary. The fees collected under~~

1 ~~this section shall be deposited in the Agricultural Water Quality Special Fund~~  
2 ~~under section 4803 of this title. [Repealed.]~~

3 Sec. 8. REPEAL; MEDIUM FARM; SMALL FARM

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

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

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

10 \* \* \* Conforming Changes to Statute \* \* \*

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

12 § 366. TONNAGE FEES

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

15 (1) a \$150.00 minimum tonnage fee;

16 (2) \$0.50 per ton of agricultural fertilizer distributed; and

17 (3) \$30.00 per ton of nonagricultural fertilizer distributed.

18 \* \* \*

19 (g)(1) All fees collected under subdivisions (a)(1) and (2) of this section  
20 shall be deposited in the special fund created by subsection 364(e) of this title  
21 and used in accordance with its provisions.

1           (2) All fees collected under subdivision (a)(3) of this section shall be  
2 deposited in the ~~Agricultural Water Quality Special Fund created under section~~  
3 ~~4803 of this title~~ Clean Water Fund established under 10 V.S.A. § 1388.

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

5           § 563. HEMP; AN AGRICULTURAL PRODUCT

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

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

13           (b) The registrant shall pay an annual fee of \$200.00 for each product  
14 registered, and \$185.00 of that amount shall be deposited in the special fund  
15 created in section 929 of this title. Of the registration fees collected under this  
16 subsection, \$15.00 of the amount collected shall be deposited in the  
17 ~~Agricultural Water Quality Special Fund under section 4803 of this title~~ Clean  
18 Water Fund established under 10 V.S.A. § 1388. Of the registration fees  
19 collected under this subsection, \$25.00 of the amount collected shall be used to  
20 offset the additional costs of inspection of economic poison products and to  
21 provide educational services, training, and technical assistance to pesticide

1 applicators, beekeepers, and the general public regarding the effects of  
2 pesticides on pollinators and the methods or best management practices to  
3 reduce the impacts of pesticides on pollinators. The annual registration year  
4 shall be from December 1 to November 30 of the following year.

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

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

14 \* \* \*

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



1 ~~Markets and~~ shall not adopt rules that restrain silvicultural activities without  
2 the consent of the Commissioner of Forests, Parks and Recreation.

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

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

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

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

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

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

16 (e) Beginning on February 1, 2016, and annually thereafter, the Secretary,  
17 after consultation with the ~~Secretary of Agriculture, Food and Markets and the~~  
18 Secretary of Transportation, shall submit to the House Committee on Natural  
19 Resources, Fish, and Wildlife a summary of activities and measures of  
20 progress of water quality ecosystem restoration programs. The provisions of

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

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

4 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

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

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

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

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

15 (C) the Agency of Natural Resources' Combined Sewer Overflow  
16 Rule;

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

19 (E) the permanent protection of land and waters from future  
20 development and impairment through conservation and water quality projects

1 funded by the Vermont Housing and Conservation Trust Fund authorized by  
2 chapter 15 of this title.

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

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

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

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

16 (2) fund staff positions at the Agency of Natural Resources, ~~Agency of~~  
17 ~~Agriculture, Food and Markets~~, or the Agency of Transportation when the  
18 positions are necessary to achieve or maintain compliance with water quality  
19 requirements and existing revenue sources are inadequate to fund the necessary  
20 positions; and

1           (3) provide funding to clean water service providers to meet the  
2 obligations of chapter 37, subchapter 5 of this title.

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

4           (b) Organization of the Board. The Clean Water Board shall be composed  
5 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           [Repealed.]

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

12           (5) the Secretary of Transportation or designee; and

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

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

19           § 1389b. CLEAN WATER FUND AUDIT

20           (a) On or before January 15, 2021, the Secretary of Administration shall  
21 submit to the House and Senate Committees on Appropriations, the Senate

1 Committee on Finance, the House Committee on Ways and Means, the Senate  
2 Committee on Agriculture, the House Committee on Agriculture and Forestry,  
3 the Senate Committee on Natural Resources and Energy, and the House  
4 Committee on Natural Resources, Fish, and Wildlife a program audit of the  
5 Clean Water Fund. The audit shall include:

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

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

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

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

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

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

21 \* \* \*



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

2 (8) “~~Required agricultural practices~~ Agricultural Practices” shall be as  
3 defined by the Secretary of ~~Agriculture, Food and Markets under 6 V.S.A.~~  
4 ~~§ 4810~~ Natural Resources under chapter 47 of this title.

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

6 (c) Rules adopted by the Secretary under subsection (a) of this section shall  
7 include provisions for the identification of agricultural lands, as defined in  
8 32 V.S.A. § 3752, within public water source protection areas and for ensuring  
9 that ~~required agricultural practices~~ farming, as that term is defined in section  
10 6001 of this title, on those lands ~~are~~ is not unduly restricted by the  
11 development of the public water source protection area without the consent of  
12 the owner of those agricultural lands. Prior to the adoption of rules under this  
13 subsection, the Secretary shall consult with the Secretary of Agriculture, Food  
14 and Markets and, if possible, obtain concurrence of the Secretary of  
15 Agriculture, Food and Markets. If the Secretary of Agriculture, Food and  
16 Markets does not concur, the Secretary of Agriculture, Food and Markets shall  
17 state any objections in writing; and those objections shall be included by the  
18 Secretary in filing the final proposed rule with the Legislative Committee on  
19 Administrative Rules.

1 Sec. 21. 10 V.S.A. § 6001(3)(E) is amended to read:

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

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

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

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

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

20 (I) The storage, preparation, processing, and sale of qualifying  
21 products, provided that more than 50 percent of the total annual sales are from



1 qualifying products that are principally produced on the farm at which the  
2 business is located.

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

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

20 (iii) “Farming” shall have the same meaning as in 10 V.S.A.  
21 § 6001.

1 (iv) “Qualifying product” means a product that is wholly:

2 (I) an agricultural, horticultural, viticultural, or dairy

3 commodity, or maple syrup;

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

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

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

7 (V) a product manufactured on one or more farms from

8 commodities wholly grown or raised on one or more farms.

9 (v) “RAP rules” means the rules on ~~required agricultural practices~~

10 Required Agricultural Practices adopted pursuant to 6 V.S.A. chapter 215,

11 subchapter 2 administered and amended by the Secretary of Natural Resources

12 under 10 V.S.A. chapter 47.

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

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

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

20 (C) Use of structures or land. An accessory on-farm business may  
21 take place inside new or existing structures or on the land.

1 (D) Review; permit. Activities of an accessory on-farm business that  
2 are not exempt under section 4413 of this title may be subject to site plan  
3 review pursuant to section 4416 of this title. A bylaw may require that such  
4 activities meet the same performance standards otherwise adopted in the bylaw  
5 for similar commercial uses pursuant to subdivision 4414(5) of this title.

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

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

15 Sec. 23. 24 V.S.A. § 4413(d)(1) is amended to read:

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

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

20 (B) accepted silvicultural practices, as defined by the Commissioner  
21 of Forests, Parks and Recreation, including practices ~~which~~ that are in

1 compliance with the Acceptable Management Practices for Maintaining Water  
2 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of  
3 Forests, Parks and Recreation; or  
4 (C) forestry operations.

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

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

1 plan, or contrary to the minimum acceptable standards for forest management  
2 if the plan has expired; or a change in the parcel or use of the parcel in  
3 violation of the conservation management standards established by the  
4 Commissioner of Forests, Parks and Recreation. “Development” also means  
5 notification of the Director by the Secretary of ~~Agriculture, Food and Markets~~  
6 Natural Resources under section 3756 of this title that the owner or operator of  
7 agricultural land or a farm building is violating the water quality requirements  
8 of ~~6 V.S.A. chapter 215~~ 10 V.S.A. chapter 47 or is failing to comply with the  
9 terms of an order issued under ~~6 V.S.A. chapter 215, subchapter 10~~ 10 V.S.A.  
10 chapters 201 and 211. The term “development” shall not include the  
11 construction, reconstruction, structural alteration, relocation, or enlargement of  
12 any building, road, or other structure for farming, logging, forestry, or  
13 conservation purposes, but shall include the subsequent commencement of a  
14 use of that building, road, or structure for other than farming, logging, or  
15 forestry purposes.

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

17 (i)(1) After providing 30 days’ notice to the owner, the Director shall  
18 remove from use value appraisal an entire parcel of managed forestland and  
19 notify the owner when the Commissioner of Forests, Parks and Recreation has  
20 not received a required management activity report or has received an adverse  
21 inspection report, unless the lack of conformance consists solely of the failure

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

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

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

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

18 (B) The Director shall notify the owner that agricultural land or a  
19 farm building has been removed from use value appraisal by mailing  
20 notification of removal to the owner or operator's last and usual place of  
21 abode. After removal of agricultural land or a farm building from use value

1 appraisal under this section, the Director shall not consider a new application  
2 for use value appraisal for the agricultural land or farm building until the  
3 Secretary of ~~Agriculture, Food and Markets~~ Natural Resources submits to the  
4 Director a certification that the owner or operator of the agricultural land or  
5 farm building is complying with the water quality requirements of ~~6 V.S.A.~~  
6 ~~chapter 215~~ 10 V.S.A. chapter 47 or an order issued under ~~6 V.S.A. chapter~~  
7 ~~215~~ 10 V.S.A. chapters 201 and 211. After submission of a certification by the  
8 Secretary of ~~Agriculture, Food and Markets~~ Natural Resources, an owner or  
9 operator shall be eligible to apply for enrollment of the agricultural land or  
10 farm building according to the requirements of this section.

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

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

16 \* \* \* Agricultural Water Quality; Permit Fees \* \* \*

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

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

21 \* \* \*





1 10 V.S.A. chapter 47 on or before January 1, 2023. All small farms required to  
2 certify compliance with the Required Agricultural Practices under 10 V.S.A.  
3 § 1325 shall submit certification on or before January 1, 2025 and every three  
4 years thereafter.

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

13 (c) Budget and staffing. On or before January 1, 2021, the Secretary of  
14 Natural Resources, after consultation with the Secretary of Agriculture, Food  
15 and Markets, shall submit to the House and Senate Committees on  
16 Appropriations a proposed transfer of sufficient appropriations and staffing  
17 from the Agency of Agriculture, Food and Markets to the Agency of Natural  
18 Resources for the purposes of implementing and enforcing on or before  
19 January 1, 2022 the agricultural water quality requirements of 10 V.S.A.  
20 chapter 47, subchapter 2B.

