

1 Introduced by Committee on Agriculture

2 Date:

3 Subject: Agriculture; conservation and development; wetlands; farming;
4 forestry

5 Statement of purpose of bill as introduced: This bill proposes to amend the
6 regulation of wetlands in the State.

7 An act relating to the regulation of wetlands

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

9 * * * Wetlands * * *

10 Sec. 1. FINDINGS AND PURPOSE

11 (a) Findings. The General Assembly finds for the purposes of Secs. 1
12 through 12 of this act that:

13 (1) Wetlands provide critical ecosystem services including flood
14 resiliency, water quality protection, important wildlife and aquatic vegetation
15 habitat, groundwater recharge, erosion control, and recreational opportunities.

16 (2) Alterations to wetlands may disturb their natural ability to reduce
17 flood damage, adversely affect flood resiliency, and adversely impact public
18 health and welfare.

1 (3) Loss of wetland acreage reduces the capacity of those wetlands to
2 absorb silt and nutrients, and thus, adversely affects the quality of Vermont’s
3 lakes and streams.

4 (4) Loss or despoliation of wetland acreage adversely affects the
5 habitats of plants and animals of significant economic and ecological value.

6 (b) Purpose. The purpose of Sections 1–12 of this act are to:

7 (1) protect wetland functions to ensure protection of Vermont’s surface
8 water, groundwater, wildlife habitat, and ecological health; and

9 (2) when wetland loss cannot be avoided, ensure that wetlands be
10 managed to maximize protection, minimize impact, and facilitate restoration of
11 wetlands to the greatest extent practicable.

12 Sec. 2. 10 V.S.A. § 902 is amended to read:

13 § 902. DEFINITIONS

14 * * *

15 (5) “Wetlands” means those areas of the State that are inundated or
16 saturated by surface or groundwater at a frequency and duration sufficient to
17 support ~~significant vegetation or aquatic life that depend on saturated or~~
18 ~~seasonally saturated soil conditions for growth and reproduction.~~ Such areas
19 include marshes, swamps, sloughs, potholes, fens, river and lake overflows,
20 mud flats, bogs, and ponds, but excluding such areas as grow food or crops in
21 connection with farming activities, and that under normal circumstances do
22 support, a prevalence of vegetation typically adapted for life in saturated soil

1 conditions. Wetlands generally include swamps, marshes, bogs, and similar
2 areas.

3 (6) “Class I wetland” means:

4 ~~(A) a wetland identified on the Vermont significant wetlands~~
5 ~~inventory maps as a Class I wetland;~~

6 ~~(B) a wetland that the former Water Resources Board identified in~~
7 ~~rules of the Board as a Class I wetland; or~~

8 ~~(C) a wetland that the Secretary, based upon an evaluation of the~~
9 ~~extent to which the wetland serves the functions and values set forth in~~
10 ~~subdivision 905b(18)(A) 913(b) of this title, determines is exceptional or~~
11 ~~irreplaceable in its contribution to Vermont’s natural heritage and, therefore,~~
12 ~~merits the highest level of protection. Class I wetlands shall be designated by~~
13 ~~rule.~~

14 (7) “Class II wetland” means a wetland other than a Class I or Class III
15 wetland that exhibits one or more of the following physical characteristics:

16 ~~(A) is a wetland identified on the Vermont significant wetlands~~
17 ~~inventory maps; or The wetland is equal to or greater than 0.5 acres, or~~
18 ~~21,780 square feet, in size.~~

19 ~~(B) the Secretary determines to merit protection, pursuant to section~~
20 ~~914 of this title, based upon an evaluation of the extent to which it serves the~~
21 ~~functions and values set forth in subdivision 905b(18)(A) of this title and the~~
22 ~~rules of the Department The wetland is greater than 5,000 square feet in size~~

1 and contiguous with a stream or open body of surface water, or the wetland is
2 within a river corridor or flood hazard area.

3 (C) The wetland is over 2,500 feet in elevation and contiguous with a
4 stream.

5 (D) The wetland is greater than 2,000 square feet and contiguous
6 with an impaired surface water;

7 (E) The wetland itself is an impaired surface water.

8 (F) The wetland is or contains peatland.

9 (G) The wetland is greater than 5,000 square feet in size and is a
10 natural hillside seep.

11 (H) The wetland is a vernal pool.

12 (I) The wetland has a known occurrence of a wetland-dependent rare,
13 threatened, or endangered species.

14 (J) The wetland has a known occurrence of a State-significant natural
15 community.

16 (K) The wetland was determined to be Class II after October 1, 2020,
17 and a permit was issued authorizing impacts to that wetland.

18 (8) “Class III wetland” means a wetland that is neither a Class I wetland
19 nor a Class II wetland.

20 (9) “Buffer zone” means an area contiguous to a ~~significant~~ Class I or II
21 wetland that protects the wetland’s functions and values. The buffer zone for a
22 Class I wetland shall extend at least 100 feet from the border of the wetland,

1 unless the Department determines otherwise under section 915 of this title.

2 The buffer zone for a Class II wetland shall extend at least 50 feet from the
3 border of the wetland unless the Secretary determines otherwise under section
4 914 913 of this title.

5 (10) ~~“Panel” means the Water Resources Panel of the Agency of Natural~~
6 ~~Resources.~~ “Agricultural production area” means an area in existence as of
7 January 1, 2019 where animals, agricultural inputs, or raw agricultural
8 products are confined, housed, stored, or prepared within or without structures,
9 and includes a 200-foot buffer around such areas. Agricultural production
10 areas include barnyards, raw materials storage areas, heavy use areas, fertilizer
11 and pesticide storage areas, waste storage and containment areas, egg washing
12 or egg processing facilities, or milk houses. For the purpose of this chapter,
13 agricultural production areas do not include areas used in the storage, handling,
14 treatment, or disposal of mortalities.

15 (11) ~~“Significant wetland” means any Class I or Class II wetland.~~

16 “Farming” means:

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

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

21 (C) the operation of greenhouses; or

22 (D) the production of maple syrup.

1 (12) “Permanent structure” means a nonmovable structure that is
2 designed, planned, and constructed to remain at one location and that is
3 securely attached to its location, including residential dwellings, commercial
4 and industrial buildings, farm structures, and wastewater systems.

5 ~~(12)~~(13) “Secretary” means the Secretary of Natural Resources or the
6 Secretary’s authorized representative.

7 (14) “Structure” means a human-made construction installed in or on a
8 property for occupancy or use.

9 (15) “Waste storage facility” means an impoundment made for the
10 purpose of storing agricultural waste by constructing an embankment,
11 excavating a pit or dugout, fabricating an in-ground or aboveground structure,
12 or any combination thereof.

13 (16) “Water Quality Improvement Project” means projects specifically
14 designed and implemented to reduce pollutant loading in accordance with the
15 requirements of a Total Maximum Daily Load Implementation Plan or Water
16 Quality Remediation Plan, or pursuant to a plan for reducing pollutant loading
17 to a waterbody. These projects include:

18 (A) the retrofit of impervious surfaces in existence as of January 1,
19 2019 for the purpose of addressing stormwater runoff;

20 (B) the replacement of stream-crossing structures necessary to
21 improve aquatic organism passage, stream flow, or flood capacity;

1 (C) construction of the following conservation practices on farms,
2 when constructed and maintained in accordance with Natural Resources
3 Conservation Service Conservation Practice Standards for Vermont and the
4 Agency of Agriculture, Food and Markets’ Required Agricultural Practices:

5 (i) construction of animal trails and walkways;

6 (ii) construction of access roads;

7 (iii) designation and construction of a heavy use protection area;

8 (iv) construction of artificial wetlands; and

9 (v) the relocation of structures, when necessary, to allow for the
10 management and treatment of agricultural waste, as defined in the Required
11 Agricultural Practices Rule.

12 Sec. 3. 10 V.S.A. § 905b is amended to read:

13 § 905b. DUTIES; POWERS

14 The Department shall protect and manage the water resources of the State in
15 accordance with the provisions of this subchapter and shall:

16 * * *

17 (18) Manage wetlands to maximize protection, minimize impact, and
18 facilitate restoration of wetlands to the greatest extent practicable. Study and
19 investigate the wetlands of the State and cooperate with municipalities, the
20 general public, and other agencies, ~~and the Board~~ in collecting and compiling
21 data relating to wetlands, share information with the public regarding the
22 wetlands of the State, propose to the Board specific wetlands to be designated

1 as Class I wetlands, issue or deny permits pursuant to section 913 of this title
2 and the rules authorized by this subdivision, ~~issue wetland determinations~~
3 ~~pursuant to section 914 of this title~~, issue orders pursuant to section 1272 of
4 this title, and in accordance with 3 V.S.A. chapter 25, adopt rules to ~~address~~
5 ~~the following:~~

6 ~~(A) The identification of wetlands that are so significant they merit~~
7 ~~protection. Any determination that a particular wetland is significant will~~
8 ~~result from an evaluation of at least the following functions and values which a~~
9 ~~wetland serves:~~

10 ~~(i) provides temporary water storage for flood water and storm~~
11 ~~runoff;~~

12 ~~(ii) contributes to the quality of surface and groundwater through~~
13 ~~chemical action;~~

14 ~~(iii) naturally controls the effects of erosion and runoff, filtering~~
15 ~~silt, and organic matter;~~

16 ~~(iv) contributes to the viability of fisheries by providing spawning,~~
17 ~~feeding, and general habitat for freshwater fish;~~

18 ~~(v) provides habitat for breeding, feeding, resting, and shelter to~~
19 ~~both game and nongame species of wildlife;~~

20 ~~(vi) provides stopover habitat for migratory birds;~~

21 ~~(vii) contributes to an exemplary wetland natural community, in~~
22 ~~accordance with the rules of the Secretary;~~

1 ~~(viii) provides for threatened and endangered species habitat;~~
2 ~~(ix) provides valuable resources for education and research in~~
3 ~~natural sciences;~~
4 ~~(x) provides direct and indirect recreational value and substantial~~
5 ~~economic benefits; and~~
6 ~~(xi) contributes to the open space character and overall beauty of~~
7 ~~the landscape.~~

8 ~~(B) The ability to reclassify wetlands, in general, or on a case by~~
9 ~~case basis.~~

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

20 * * *

21 Sec. 4. 10 V.S.A. § 913 is amended to read:

1 (a) ~~Except for allowed uses adopted by the Department by rule, no person~~
2 ~~shall conduct or allow to be conducted an activity in a significant wetland or~~
3 ~~buffer zone of a significant wetland except in compliance with a permit,~~
4 ~~conditional use determination, Except as provided in subsection (e) below, the~~
5 ~~following alterations within a Class I or Class II wetland or its buffer zone are~~
6 ~~prohibited without an individual permit, authorization under a general permit,~~
7 ~~or an order issued by the Secretary;~~

8 (1) dredging or removing soil or other material;

9 (2) draining, dewatering, or otherwise altering the hydrology of the
10 wetland;

11 (3) filling; and

12 (4) cutting or removing vegetation.

13 (b) ~~A permit shall not be required under this section for: Before issuing a~~
14 ~~permit or authorization, the Secretary shall consider the extent to which a~~
15 ~~wetland serves the following functions and values, and the extent to which the~~
16 ~~proposed alteration adversely affects the functions and values served by the~~
17 ~~wetland:~~

18 (1) ~~any activity that occurred before the effective date of this section~~
19 ~~unless the activity occurred within:~~

20 (A) ~~an area identified as a wetland on the Vermont significant~~
21 ~~wetlands inventory maps;~~

1 ~~(B) a wetland that was contiguous to an area identified as a wetland~~
2 ~~on the Vermont significant wetlands inventory maps;~~

3 ~~(C) the buffer zone of a wetland referred to in subdivision (A) or (B)~~
4 ~~of this subdivision (1); water storage for flood water and storm runoff;~~

5 ~~(2) any construction within a wetland that is identified on the Vermont~~
6 ~~significant wetlands inventory maps or within the buffer zone of such a~~
7 ~~wetland, provided that the construction was completed prior to February 23,~~
8 ~~1992, and no action for which a permit is required under the rules of the~~
9 ~~Department was taken or caused to be taken on or after February 23, 1992.~~
10 protection of surface waters and groundwater;

11 (3) contribution to fish habitat;

12 (4) contribution to wildlife habitat, including resting, feeding, staging, or
13 roosting habitat for migratory birds;

14 (5) designation as a wetland Natural Community Type, as recognized by
15 the Nongame and Natural Heritage Inventory of the Vermont Fish and Wildlife
16 Department;

17 (6) contribution to habitat for rare, threatened, and endangered species;

18 (7) provides or is likely to provide resources for education or scientific
19 resources;

20 (8) recreational value and economic benefits;

21 (9) contribution to the open space and aesthetic character of the
22 landscape; and

1 (10) erosion control through binding and stabilizing the soil.

2 (c) If the proposed alteration would result in an undue adverse impact to
3 any of the functions and values listed in subsection (b), the Secretary shall not
4 issue a permit under this section unless the applicant demonstrates that they
5 have met the requirements of the wetland mitigation sequence set forth in rule.

6 (d) The Secretary may establish the necessary width of the buffer zone of
7 any Class II wetland, pursuant to the rules of the Department. The buffer zone
8 of any Class II wetland shall be 50 feet, unless otherwise determined by the
9 Secretary.

10 (e) A permit shall not be required under this section for:

11 (1) The growing of food or crops in connection with farming, consistent
12 with the following requirements:

13 (A) The growing of food or crops when conducted in connection with
14 farming, on land that has been converted for the purpose of growing food or
15 crops in ordinary rotation, provided that the conversion of a Class II wetland to
16 an area used to grow food or crops is not exempt and shall require a wetland
17 permit under this section.

18 (B) As used in this section, the growing of food or crops includes
19 cultivating, harvesting, plowing, grazing, and seeding, but does not include the
20 construction of any permanent structure located partially or wholly outside an
21 agricultural production area and its associated buffer. A permanent structure
22 includes a barn, bunker silo, waste storage facility, or sugarhouse.

1 (C) Land is no longer considered to be growing food or crops in
2 ordinary rotation if it is converted to a use other than the growing of food or
3 crops, or requires mechanized clearing or modifications to the hydrological
4 regime to resume the growing of food or crops.

5 (2) Activities conducted entirely within an agricultural production area
6 and its associated buffer.

7 (3) The implementation of best management practices on farms for the
8 purpose of improving water quality, when those practices are implemented in
9 compliance with the required agricultural practices or the Natural Resources
10 Conservation Service Conservation Practice Standards. Exempt practices
11 include:

12 (A) installation of fencing, including livestock watering systems;

13 (B) construction or maintenance of trails and walkways up to 16 feet
14 wide, including attendant stream crossings;

15 (C) maintenance of existing trails and walkways, including attendant
16 stream crossings, or maintenance, but not construction, of drainage ditches;

17 (D) maintenance of existing buildings and structures;

18 (E) maintenance, restoration, reconstruction, rehabilitation, or
19 upgrading of existing roads in wetlands, provided that work on existing roads
20 results in an overall net increase in road width of no more than 20 percent
21 beyond the original road width;

22 (F) construction or maintenance of farm ponds;

1 (G) construction or maintenance of grassed waterways;
2 (H) construction of stream crossings; and
3 (I) the installation of manure pipelines or other temporary impacts
4 that do not result in any change to the original grade of the wetland and that
5 allow for the impacted area to revert back to wetland, including the
6 reestablishment of the existing wetland vegetation, within one year.

7 (4) Forestry operations conducted in Class I or II wetlands and their
8 buffer zones, consistent with the following requirements:

9 (A) The forestry operation shall be conducted in accordance with the
10 Acceptable Management Practices for Maintaining Water Quality on Logging
11 Jobs as adopted by the Department of Forests, Parks and Recreation. The
12 removal of trees for other land uses, including commercial or residential
13 development or conversion to agricultural production, is not exempt and may
14 require a wetland permit.

15 (B) The forestry operation shall be conducted in compliance with the
16 Management Guidelines for Deer Wintering Areas in Vermont, established
17 jointly by the Department of Fish and Wildlife and the Department of Forests,
18 Parks and Recreation, when occurring in wetlands or buffer zones containing
19 deer wintering areas mapped by the Fish and Wildlife Department.

20 (C) Log landings shall be restricted to upland or buffer zones, except
21 that landings not requiring the placement of fill may be located within Class II
22 wetlands when the ground is frozen.

1 (D) Equipment maintenance and the storing or changing of oil,
2 grease, or other petroleum products shall be restricted to log landings.

3 (E) The construction of new truck roads in buffer zones when
4 necessary, and the maintenance, restoration, reconstruction, rehabilitation, or
5 upgrade of existing truck roads in buffer zones, when used solely for forestry
6 operations.

7 (F) Existing truck roads in wetlands may be maintained, restored,
8 reconstructed, rehabilitated, or upgraded, provided that work on existing truck
9 roads results in an overall net increase in road width of no more than 20
10 percent beyond the original road width, that includes the combined total width
11 of the shoulders, roadbed, and ditches.

12 (G) The construction of permanent buildings in Class I or II wetlands
13 and buffer zones, and the construction of new truck roads in Class I or II
14 wetlands, is not exempt and requires a wetland permit.

15 (H) The removal of beaver dams may be allowed to the extent
16 necessary to allow for the use of existing logging roads or ongoing forestry
17 operations.

18 (I) Forestry operations conducted in any Class I wetland or its buffer
19 zones, or any Class II wetland specifically designated by the Secretary as
20 providing habitat for any species on the state or federal list of threatened or
21 endangered species, shall comply with a plan approved in writing by the
22 Commissioner of Forests, Parks and Recreation.

1 (5) Any activity exempted by the Department in rule, adopted according
2 to the provisions of 3 V.S.A. chapter 25.

3 (6) Any construction within a wetland that is identified on the Vermont
4 significant wetlands inventory maps or within the buffer zone of such a
5 wetland, provided that the construction was completed prior to February 23,
6 1992, and no action for which a permit is required under the rules of the
7 Department was taken or caused to be taken on or after February 23, 1992.

8 Sec. 5. 10 V.S.A. § 914 is amended to read:

9 § 914. ~~WETLANDS DETERMINATIONS~~

10 ~~(a) The Secretary may, upon a petition or on his or her own motion,~~
11 ~~determine whether any wetland is a Class II or Class III wetland. Such~~
12 ~~determinations shall be based on an evaluation of the functions and values set~~
13 ~~forth in subdivision 905b(18)(A) of this title and the rules of the Department.~~

14 ~~(b) The Secretary may establish the necessary width of the buffer zone of~~
15 ~~any Class II wetland as part of any wetland determination pursuant to the rules~~
16 ~~of the Department.~~

17 ~~(c) The provisions of chapter 170 of this title shall apply to issuance of~~
18 ~~determinations under this section.~~

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

20 ~~(e) The Secretary may recommend to the panel that a wetland be classified~~
21 ~~as a Class I wetland under section 915 of this title. [Repealed.]~~

1 Sec. 6. 10 V.S.A. § 916 is amended to read:

2 § 916. ~~REVISION OF VERMONT SIGNIFICANT WETLANDS~~
3 ~~INVENTORY MAPS~~

4 ~~The Secretary shall revise the Vermont significant wetlands inventory maps~~
5 ~~to reflect wetland determinations issued under section 914 of this title and~~
6 ~~rulemaking by the panel under section 915 of this title. [Repealed.]~~

7 Sec. 7. 10 V.S.A. § 918 is added to read:

8 § 918. COORDINATION; COOPERATION; FARMING ACTIVITIES IN
9 WETLANDS

10 The Secretary of Natural Resources and the Secretary of Agriculture, Food
11 and Markets shall adopt a memorandum of understanding to formalize a
12 process for coordinating the review of whether farming or an activity related to
13 farming requires a permit under this subchapter. The memorandum of
14 understanding shall address: how coordination shall occur; the timing of
15 coordination, including how coordination shall be conducted at the earliest
16 possible time; when a permit may be required; how a person engaged in
17 farming would obtain a permit; and enforcement of any required permit.

18 Sec. 8. ADOPTION OF MEMORANDUM OF UNDERSTANDING;
19 FARMING IN WETLANDS

20 (a) On or before January 15, 2020, the Secretary of Natural Resources, after
21 consultation with the Secretary of Agriculture, Food and Markets, shall submit
22 a copy or draft of the memorandum of understanding required under 10 V.S.A.

1 § 918 to the Senate Committees on Agriculture and on Natural Resources and
2 Energy and to the House Committees on Agriculture and Forestry and on
3 Natural Resources, Fish, and Wildlife.

4 (b) On or before February 1, 2020, the Secretary of Natural Resources and
5 the Secretary of Agriculture, Food and Markets shall adopt the memorandum
6 of understanding required under 10 V.S.A. § 918.

7 Sec. 9. 3 V.S.A. § 2822(j) is amended to read:

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

11 * * *

12 (26) For individual conditional use determinations, for individual
13 wetland permits, for general conditional use determinations issued under
14 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit,
15 an administrative processing fee assessed under subdivision (2) of this
16 subsection and an application fee of:

17 * * *

18 (H) Maximum fee, for the construction of any Water Quality
19 Improvement Project as defined in 10 V.S.A. § 902(13), in any Class II
20 wetland or buffer, \$200.00 per application.

1 Sec. 10. REPEAL

2 2018 Acts and Resolves No. 194, Sec. 8a (sunset of maximum fee for
3 manure pipeline in wetland) is repealed.

4 Sec. 11. PREVIOUSLY ISSUED WETLAND CLASSIFICATION

5 DECISIONS

6 (a) If a wetland was determined by the Secretary to be a Class II wetland
7 prior to October 1, 2020, and a formal determination issued pursuant to 10
8 V.S.A. § 914 was issued for the wetland less than five years prior to October 1,
9 2020, that determination shall remain in effect and the wetland shall be
10 considered a Class II wetland until five years from the effective date of
11 issuance of the formal determination.

12 (b) If a wetland was determined by the Secretary to be a Class III wetland
13 five years prior to October 1, 2020, and that determination was documented
14 either as a formal or preliminary determination, that determination shall remain
15 in effect until five years from the date of that decision.

16 Sec. 12. WETLAND SCIENTIST LICENSURE REQUIREMENTS

17 The Agency of Natural Resources shall commence a study of potential
18 approaches to licensing and certifying qualified wetlands scientists, including
19 developing a set of standard qualifications required for all professional wetland
20 scientists. On or before January 1, 2014, the Agency shall submit a report to
21 the Legislature summarizing its findings and providing recommendations for
22 the development of a professional certification program for wetland scientists.

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* * * Surface Inlets * * *

Sec. 13. FINDINGS

The General Assembly finds that, for the purposes of Secs. 9 through 13 of this act, the Agency of Natural Resources has determined that surface inlets in agricultural fields are unauthorized point sources under the federal Clean Water Act and must be eliminated not later than January 1, 2020.

Sec. 14. 6 V.S.A. § 4802 is amended to read:

§ 4802. DEFINITIONS

As used in this chapter:

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

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

§ 6001(22).

* * *

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

* * *

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

§ 1251(13)

(9)(A) “Cropland” means land on which one or more of the following

occur:

(i) plants are grown for food, feed, or fiber;

(ii) Christmas trees are grown;

(iii) maple sap is collected;

1 (iv) horticultural, viticultural, or orchard crops are grown; or

2 (v) livestock are pastured.

3 (B) “Cropland” shall not mean land on which trees are grown for
4 silvicultural or timber purposes.

5 (10) “Surface inlet” means any aboveground structure that receives,
6 collects, or redirects water from cropland to an underground drainage, a ditch,
7 or a surface water.

8 Sec. 15. 6 V.S.A. § 4817 is added to read:

9 § 4817. SURFACE INLETS; REPORT ON ELIMINATION; INSPECTION

10 (a) As part of an annual report or certification required to be submitted to
11 the Secretary under this chapter or rules adopted under this chapter, the owner
12 or operator of a large farm, medium farm, or certified small farm shall notify
13 the Secretary:

14 (1) whether a surface inlet is located on the farm;

15 (2) whether the surface inlet:

16 (A) has been removed, sealed, or otherwise eliminated; or

17 (B) is permitted by the Agency of Natural Resources under 10 V.S.A.
18 chapter 47; and

19 (3) if the surface inlet was removed, sealed, or otherwise eliminated, the
20 date of removal, sealing, or elimination.

21 (b) Within one year of a report under subsection (a) of this section that a
22 surface inlet is located on a large farm, medium farm, or certified small farm,

1 the Secretary shall conduct an inspection of the farm to determine if the surface
2 inlet is permitted by the Agency of Natural Resources or has been removed,
3 sealed, or otherwise eliminated. If the surface inlet is not permitted and has
4 not been removed, sealed, or otherwise eliminated, the Secretary shall contact
5 the Agency of Natural Resources pursuant to the memorandum of
6 understanding under section 4810 of this title regarding implementation and
7 enforcement of the agricultural water quality program.

8 Sec. 16. REPORT ON ELIMINATION OF SURFACE INLETS

9 On or before March 15, 2020, the Secretary of Agriculture, Food and
10 Markets, after consultation with the Agency of Natural Resources, shall submit
11 to the Senate Committee on Natural Resources and Energy and the House
12 Committee on Natural Resources, Fish, and Wildlife a report regarding the
13 removal, sealing, or elimination of surface inlets that discharge waste to State
14 waters on or before January 1, 2019. The report shall provide:

15 (1) the number of farms reporting the presence of a surface inlet under
16 6 V.S.A. § 4817;

17 (2) the number of surface inlets reported removed, sealed, or otherwise
18 eliminated;

19 (3) the number of surface inlets reported as permitted;

20 (4) the number of inspections conducted by the Secretary of Agriculture,
21 Food and Markets of farms reporting surface inlets;

1 (5) the number of enforcement actions, if any, initiated by the Agency of
2 Natural Resources or the Agency of Agriculture, Food and Markets to require
3 removal, sealing, or elimination of a surface inlet; and

4 (6) any additional information that the Secretary determined is relevant
5 to the regulation of surface inlets on farms.

6 Sec. 17. REPEAL

7 6 V.S.A. § 4817 (surface inlets; report; elimination) shall be repealed on
8 July 1, 2023.

9 * * * Effective Dates * * *

10 Sec. 18. EFFECTIVE DATES

11 (a) This section and Sec. 10 (repeal of sunset on wetlands permitting fee;
12 manure pipelines) shall take effect on passage.

13 (b) Secs. 1–6, Sec. 9, and Secs. 11 and 12 (wetlands permitting) shall take
14 effect October 1, 2020.

15 (c) Secs. 7 and 8 (wetlands coordination MOU) shall take effect July 1,
16 2019.

17 (d) Secs. 13–17 (surface inlets) shall take effect July 1, 2019.