

1 An act relating to technical corrections for the 2022 legislative session.

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

3 **Act 161 (2018) is amended to read:**

4

5 Sec. 2. DAM REGISTRATION PROGRAM REPORT On or before January 1, **2024**

6 **2023**, the Department of Environmental Conservation shall submit a report to the House

7 Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the

8 Senate Committees on Natural Resources and Energy and on Finance. The report shall

9 contain:

10

11 Sec. 3. ADOPTION OF RULES

12 The Secretary of Natural Resources shall adopt the rules required under 10 V.S.A. § 1110

13 as follows:

14

15 (1) the rules required under 10 V.S.A. § 1110(1) (exemptions), § 1110(3) (emergency

16 action plan), § 1110(4) (hazard potential classification), § 1110(5) (dam registration), and

17 § 1110(6) (dam inspection) shall be adopted on or before July 1, 2020;

18 and

19

20 (2) the rules required under 10 V.S.A. § 1110(2) (dam design standards) shall be adopted

21 on or before July 1, **2023 2022**.

22 **Explanation: DEC has been working with stakeholders on the rulemaking process, and all**

23 **agree an additional year to produce better rules would be advisable.**

1 **29 V.S.A. § 402 is amended to read:**

2
3 (7) "Public waters" means navigable waters excepting those waters in private ponds and
4 private preserves as set forth in 10 V.S.A. 10 V.S.A. § 1442 .

5 **Explanation: There are currently multiple definitions of private ponds in statute, and this**
6 **change provides certainty and clarity.**

7
8 **10 V.S.A. § 1259(d) is amended to read:**

9 ***

10 (d) No person shall cause a discharge of wastes into Class A waters designated as Class
11 A prior to July 1, 2022 except for on-site disposal of sewage from systems with a capacity
12 of 1,000 gallons per day (gpd), or less, that are either exempt from or comply with the
13 environmental protection rules, or existing systems, which shall require a permit according
14 to the provisions of subsection 1263(f) of this title. No person shall cause a discharge of
15 wastes into Class A(1) waters designated as Class A(1) after July 1, 2022 except for on-
16 site disposal of sewage from new systems that are either exempt from or comply with the
17 Vermont Wastewater System and Potable Water Supply Rule, or existing systems, which
18 shall require a permit according to the provisions of subsection 1263(f) of this title.

19 **Explanation: As the quality of our waterbodies improves, DEC would like to see more**
20 **reflect the current monitoring data. Modern on-site wastewater systems are designed and**
21 **permitted not to impact surface water. This prohibition creates an artificial control that**
22 **doesn't necessarily produce a benefit to Vermont waters, but it does create significant local**
23 **opposition to waterbody reclassification.**

24 **24 V.S.A. § 2248 is amended to read:**
25

1 (d) No person may deliver salvage vehicles to or operate a mobile salvage vehicle crusher
2 at a salvage yard that does not hold a certificate of registration under this subchapter. A
3 salvage yard holding a certificate of registration under this subchapter shall post a copy of
4 its current certificate in a clearly visible location in the proximity of each entrance to the
5 salvage yard. Notwithstanding any other provision of law, a salvage yard that does not
6 hold a certificate of registration under this subchapter may operate a mobile salvage
7 vehicle crusher for the purpose of closing the salvage yard, after notification to the
8 Secretary.

9 **Explanation: This new provision enables us to cost-effectively and expeditiously close**
10 **unregistered salvage yards.**

1 **24 V.S.A. § 4753 is amended to read:**

2 § 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

3 (a) There is hereby established a series of special funds to be known as:

4 (1) The Vermont Environmental Protection Agency (EPA) Pollution Control
5 Revolving Fund, which shall be used, consistent with federal law, to provide loans for
6 planning and construction of clean water projects, including acquisitions of project-related
7 easements, land, options to purchase land, and temporary or permanent rights-of-way, and
8 for implementing related management programs.

9 * * *

10 (10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which
11 shall be used to provide loans to individuals, in accordance with section 4763b of this title,
12 for the design and construction of repairs to or replacement of wastewater systems and
13 potable water supplies when the wastewater system or potable water supply is a failed
14 system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the
15 wastewater system or potable water supply has a high probability of failing. The amount
16 of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) or from the
17 Fund established in subsection (a)(1) of this section, or from a combination of both, shall
18 be deposited into this Fund at the beginning of each fiscal year to ensure a minimum
19 balance of available funds of \$275,000.00 exists for each fiscal year.

20 * * *

21 (b)(1) Each of such funds shall be established and held separate and apart from any
22 other funds or monies of the State and shall be used and administered exclusively for the
23 purpose of this chapter with the exception of transferring funds from the Vermont Drinking

1 Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the
2 Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund,
3 and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental
4 Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the
5 Secretary.

6 (2) These funds shall be administered by the Bond Bank on behalf of the State,
7 except that:

8 (A) the Vermont EPA Drinking Water State Revolving Fund and the Vermont
9 Drinking Water Planning Loan Fund shall be administered by VEDA concerning loans to
10 privately owned public water systems in accordance with ~~subdivisions (a)(3) and (5) of~~
11 ~~this section~~ subchapter 3 of this chapter;

12 (B) the Vermont Environmental Protection Agency (EPA) Pollution Control
13 Revolving Fund shall be administered by VEDA concerning loans to private entities for
14 clean water projects provided under subchapter 4 of this chapter; and

15 (C) the Vermont Environmental Protection Agency (EPA) Pollution Control
16 Revolving Fund and the Vermont Wastewater and Potable Water Revolving Loan Fund
17 may be administered by a community development financial institution, as that term is
18 defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of
19 providing loans to individuals ~~for failed wastewater systems and potable water supplies in~~
20 accordance with section 4763b of this chapter.

21 * * *

22 **24 V.S.A. chapter 120, subchapter 2 is amended to read:**

23 Subchapter 2. ~~Municipal~~ Loans to Municipalities and Individuals

1 * * *

2 § 4757 REVOLVING LOAN FUNDS; ADDITIONAL USES

3 In addition to providing a source of funds from which loans may be made to
4 municipalities under this chapter, each fund created under section 4753 of this chapter may
5 be used for one or more of the following purposes:

6 * * *

7 (6) To pay from the Vermont Environmental Protection Agency (EPA) Pollution
8 Control Revolving Fund or the Vermont Wastewater and Potable Water Revolving Loan
9 Fund the costs of administration of loans awarded under subdivision ~~4753(a)(10)~~ 4763b of
10 this title.

11 * * *

12 § 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND
13 FAILED POTABLE WATER SUPPLIES

14 (a) Notwithstanding any other provision of law, when the wastewater system or potable
15 water supply serving only single-family and multifamily residences either meets the
16 definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a
17 designer to have a high probability of failing, the Secretary of Natural Resources may lend
18 monies to an owner of one or more of the residences from the Vermont Wastewater and
19 Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases,
20 the following conditions shall apply:

1 * * *

2 ~~(3) a loan may only be made to an owner who has been denied financing for the~~
3 ~~repair, replacement, or construction due to involuntary disconnection by at least one other~~
4 ~~financing entity;~~

5 ~~(4)~~ (3) when the failed supply or system also serves residences owned by persons
6 other than the loan applicant, a loan may only be made for an equitable share of the cost to
7 repair or replace the failed supply or system that is determined through agreement of all of
8 the owners of residences served by the failed system or supply;

9 ~~(5)~~ (4) no construction loan shall be made to an individual under this subsection,
10 nor shall any part of any revolving loan made under this subsection be expended, until all
11 of the following take place:

12 * * *

13 ~~(6)~~ (5) all funds from the repayment of loans made under this subsection shall be
14 deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

15 (b) Notwithstanding any other provision of law, when the wastewater system serving
16 only single-family and multifamily residences either meets the definition of a failed system
17 in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing,
18 the Secretary of Natural Resources may lend monies to an owner of one or more of the
19 residences from the Vermont Wastewater and Potable Water Revolving Loan Fund and
20 capitalized by money that has been transferred from the Vermont Environmental
21 Protection Agency (EPA) Pollution Control Revolving Fund pursuant to subsection
22 4753(a)(10) of this title, provided that no State funds are used. In such cases, the following
23 conditions shall apply:

1 (1) a loan may only be made to an owner with a household income equal
2 to or less than 200 percent of the State average median household income;

3 (2) a loan may only be made to an owner who resides in one of the residences
4 served by the failed system on a year-round basis;

5 (3) a loan may only be made to an owner who demonstrates sufficient means to
6 pay the principal and interest on the loan;

7 (4) a loan may only be made for a project that is a clean water project the
8 Secretary has designated as a priority for receipt of financial assistance;

9 (5) when the failed system also serves residences owned by persons other than
10 the loan applicant, a loan may only be made for an equitable share of the cost to repair or
11 replace the failed system that is determined through agreement of all of the owners of
12 residences served by the failed system;

13 (6) no construction loan shall be made to an individual under this subsection,
14 nor shall any part of any revolving loan made under this subsection be expended, until all
15 of the following take place:

16 (A) the Secretary of Natural Resources determines that if a wastewater system
17 and potable water supply permit is necessary for the design and construction of the project
18 to be financed by the loan, the permit has been issued to the owner of the failed system;
19 and

20 (B) the individual applying for the loan certifies to the Secretary of Natural Resources
21 that the proposed project has secured all State and federal permits, licenses, and approvals
22 necessary to construct and operate the project to be financed by the loan;

23 (8) loans shall be awarded at or below market interest rates; and

1 (9) all funds from the repayment of loans made under this subsection shall be
2 deposited into the Vermont Environmental Protection Agency (EPA) Pollution Control
3 Revolving Fund.

4 (c) Loans awarded under this section:

5 (1) shall include a loan repayment schedule that commences not later than one year
6 after completion of the funded project for which loan funds have been issued; and

7 (2) shall not be used for the operation and maintenance expenses, or laboratory fees for
8 monitoring, of a wastewater system or potable water supply.

9 ~~(b)~~ (d) The Secretary of Natural Resources shall establish standards, policies, and
10 procedures as necessary for the implementation of this section. The Secretary may
11 establish criteria to extend the payment period of a loan or to waive all or a portion of the
12 loan amount.

13

14 **Explanation: Vermont is experiencing significant issues with failed septic systems**
15 **presently. Our small ARPA grant program has received over 1000 inquiries. This change**
16 **enables the SRF to be used as a source of low-cost loan funds to supplement grant support**
17 **and in the absence of grant funds, to help make financing possible for struggling**
18 **Vermonters.**

1 **Sec. 1. 10 V.S.A. § 1264(k) is amended to read:**

2
3 (k) Report on treatment practices. As part of the report required under section 1389a of
4 this title, the Secretary annually shall report the following:

5 (1) whether the phosphorus load from new development permitted under this section
6 by the Secretary in the Lake Champlain watershed in the previous State fiscal calendar
7 year is achieving at least a 70 percent average phosphorus load reduction;

8 (2) the estimated total phosphorus load reduction from new development,
9 redevelopment, and retrofit of impervious surface permitted under this section in the
10 previous ~~calendar~~ State fiscal year; and

11 (3) the number of projects and the percentage of projects as a whole that
12 implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices,
13 or Tier 3 stormwater treatment practices in the previous ~~calendar~~ State fiscal year.

14 **Sec. 2. 10 V.S.A. § 1386 is amended to read:**

15 § 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN

16 TOTAL MAXIMUM DAILY LOAD

17 * * *

18 (e) Beginning on ~~February 1, 2016~~ January 15, 2019, and annually thereafter, the
19 Secretary, ~~after consultation with the Secretary of Agriculture, Food and Markets and the~~
20 ~~Secretary of Transportation, shall submit to the House Committee on Natural Resources,~~
21 ~~Fish, and Wildlife a summary of activities and measures of progress of water quality~~
22 ~~ecosystem restoration programs~~ shall report the status of Lake Champlain Total Maximum
23 Daily Load implementation plan milestones (Phase 2 and beyond) identified in Tactical
24 Basin Plan Implementation Tables for each basin due for an U.S. Environmental Protection

1 Agency interim or final report card in accordance with the TMDL Accountability
2 Framework schedule. The provisions of 2 V.S.A. § 20(d) (expiration of required reports)
3 shall not apply to the report to be made under this subsection.

4 **Sec. 3. 10 V.S.A. § 1389a is amended to read:**

5 § 1389a. CLEAN WATER INVESTMENT REPORT

6 * * *

7 (b) The Report shall include:

8 (1) Documentation of progress or shortcomings in meeting established indicators for
9 clean water restoration.

10 (2) ~~A summary of additional funding sources pursued by the Board, including~~
11 ~~whether those funding sources were attained; if it was not attained, why it was not~~
12 ~~attained; and where the money was allocated from the Fund. [Repealed.]~~

13 (3) A summary of water quality problems or concerns in each watershed basin of
14 the State, a list of water quality projects identified as necessary in each basin of the State,
15 and how identified projects have been prioritized for implementation. The water quality
16 problems and projects identified under this subdivision shall include programs or projects
17 identified across State government and shall not be limited to projects listed by the Agency
18 of Natural Resources in its watershed projects database.

19 (4) A summary of any changes to applicable federal law or policy related to the
20 State's water quality improvement efforts, including any changes to requirements to
21 implement total maximum daily load plans in the State.

22 (5) ~~A summary of available federal funding related to or for water quality~~
23 ~~improvement efforts in the State. [Repealed.]~~

1 (6) Beginning January ~~2024~~ **2023**, a summary of the administration of the grant
2 programs established under sections 925-928 of this title, including whether these grant
3 programs are adequately funding implementation of the Clean Water Initiative and
4 whether the funding limits for the Water Quality Enhancement Grants under subdivision
5 1389(e)(1)(D) of this title should be amended to improve State implementation of the
6 Clean Water Initiative.

7 (c) The Report may also provide an overview of additional funding necessary to meet
8 objectives established for clean water restoration and recommendations for additional
9 revenue to meet those restoration objectives. The provisions of 2 V.S.A. §
10 20(d)(expiration of required reports) shall not apply to the report required by this section.

11 (d)(1) The Secretary of Administration shall develop and use a results-based
12 accountability process in publishing the annual report required by subsection (a) of this
13 section.

14 (2) The Secretary of Administration shall develop user-friendly issue briefs, tables,
15 or executive summaries that make the information required under subdivision (b)(3)
16 available to the public separately from the report required by this section.

17 (3) On or before September 1 of each year, the Secretary of Administration shall
18 submit to the Joint Fiscal Committee ~~an interim report regarding the information required~~
19 ~~under subdivision (b)(5) of this section relating to available federal funding~~ a summary of
20 available federal funding related to or for water quality efforts in the State.

21
22 **Sec. X Act 76 of 2019 is amended to read:**

23 Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

On or before July 1, 2024 ~~2022~~, the Secretary of Natural Resources, after consultation with the Clean Water Board, shall submit to the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance and the House Committees on Appropriations, on Natural Resources, Fish, and Wildlife, and on Ways and Means recommendations regarding implementation of a market-based mechanism that allows the purchase of water quality credits by permittees under 10 V.S.A. chapter 47, and other entities. The report shall include information on the cost to develop and manage any recommended trading program.

Explanation: As our clean water work has expanded and as lived experience has made things clearer, we would like to request additional changes to various reporting requirements.