

No. 79. An act relating to miscellaneous environmental conservation subjects.

(S.80)

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

* * * Dam Registration and Design Standards * * *

Sec. 1. 2018 Acts and Resolves No. 161, Sec. 2 is amended to read:

Sec. 2. DAM REGISTRATION PROGRAM REPORT

On or before January 1, ~~2023~~ 2025, the Department of Environmental Conservation shall submit a report to the House Committees on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance. The report shall contain:

- (1) an evaluation of the dam registration program under 10 V.S.A. chapter 43;
- (2) a recommendation on whether to modify the fee structure of the dam registration program;
- (3) a summary of the dams registered under the program, organized by amount of water impounded and hazard potential classification; and
- (4) an evaluation of any other dam safety concerns related to dam registration.

Sec. 2. 2018 Acts and Resolves No. 161, Sec. 3 is amended to read:

Sec. 3. ADOPTION OF RULES

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

(1) the rules required under 10 V.S.A. § 1110(1) (exemptions), § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification), § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted on or before July 1, 2020; and

(2) the rules required under 10 V.S.A. § 1110(2) (dam design standards) shall be adopted on or before July 1, ~~2022~~ 2024.

* * * Public Waters; Encroachment * * *

Sec. 3. 29 V.S.A. § 402(7) is amended to read:

(7) “Public waters” means navigable waters excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. ~~chapter 119~~ § 1442.

* * * Salvage Yards * * *

Sec. 4. 24 V.S.A. § 2248(d) is amended to read:

(d) No person may deliver salvage vehicles to or operate a mobile salvage vehicle crusher at a salvage yard that does not hold a certificate of registration under this subchapter. A salvage yard holding a certificate of registration under this subchapter shall post a copy of its current certificate in a clearly visible location in the proximity of each entrance to the salvage yard.

Notwithstanding any other provision of law to the contrary, a salvage yard that does not hold a certificate of registration under this subchapter may operate a mobile salvage vehicle crusher with a liquids collection system, in accordance with the rules adopted under this subchapter for vehicle crushing, for the purpose of closing the salvage yard after first notifying the Secretary in writing of the intent to close the salvage yard.

* * * Water Quality Financing; State Revolving Loan Funds * * *

Sec. 5. 24 V.S.A. § 4753 is amended to read:

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

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

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

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as

defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) or from the Fund established in subdivision (1) of this subsection, or a combination of both, shall be deposited into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of \$275,000.00 exists for each fiscal year.

(b)(1) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary.

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

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

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

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

* * *

Sec. 6. 24 V.S.A. chapter 120, subchapter 2 is amended to read:

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

* * *

§ 4757. REVOLVING LOAN FUNDS; ADDITIONAL USES

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

(1) To make loans, to refund bonds or notes of a municipality issued after March 7, 1985 for sewerage works, or after July 1, 1993 for water supply systems for the purpose of financing the construction of any capital

improvements or management program described in section 4753 and certified under section 4756 of this title.

(2) To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement or management program described in section 4754 of this title and certified under section 4756.

(3) To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 4754 of this title.

(4) To invest available fund balances, and to credit the net interest income thereon to the particular fund providing investment funds.

(5) To pay the costs of the Bond Bank, VEDA, and the agency associated with the administration of each fund; provided, however, that no more than four percent of the aggregate of the highest fund balances in any fiscal year shall be used for such purposes, and that a separate account be established outside the Drinking Water State Revolving Fund for such purposes. As used in this subsection, costs shall include fiscal, clerical, administrative, and issuance expenditures directly attributable and allocated to the maintenance implementation and administration of the loan funds created under this chapter.

(6) To pay from the Vermont Environmental Protection (EPA) Pollution Control Revolving Fund or the Vermont Wastewater and Potable Water

Revolving Loan Fund the costs of administration of loans awarded under ~~subdivision 4753(a)(10)~~ section 4763b of this title.

* * *

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER

SYSTEMS AND FAILED POTABLE WATER SUPPLIES

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

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

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

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

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable

share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

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

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

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

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

(b) Notwithstanding any other provision of law to the contrary, when the wastewater system serving only single-family and multifamily residences either meets the definition of a failed system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the

residences from the Vermont Wastewater and Potable Water Revolving Loan Fund and capitalized by money that has been transferred from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund pursuant to subdivision 4753(a)(10) of this title, provided that no State funds are used. In such cases, all of the following conditions shall apply:

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

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

(3) A loan may only be made to an owner who demonstrates sufficient means to pay the principal and interest on the loan.

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

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

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

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

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

(7) Loans shall be awarded at or below market interest rates.

(8) All funds from the repayment of loans made under this subsection shall be deposited into the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

(c) Loans awarded under this section:

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

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

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

* * *

Sec. 6a. USE OF VERMONT ENVIRONMENTAL PROTECTION

AGENCY (EPA) POLLUTION CONTROL REVOLVING FUND

Notwithstanding the authority of the Secretary of Natural Resources under 24 V.S.A. § 4753 to transfer up to \$275,000.00 from the Vermont EPA Pollution Control Revolving Fund to the Vermont Wastewater and Potable Water Revolving Fund, the Secretary of Natural Resources shall not transfer any funds from the EPA Pollution Control Revolving Fund to the Vermont Wastewater and Potable Water Revolving Fund after July 1, 2024 until:

(1) the Secretary of Natural Resources submits the comprehensive fee report required by the General Assembly for each Agency of Natural Resources fee in existence on July 1, 2023;

(2) the Secretary of Natural Resources submits the report required under Sec. 6b (report on EPA revolving funds) of this act; and

(3) an act of the General Assembly authorizes transfers from the Vermont EPA Pollution Control Revolving Fund to the Vermont Wastewater and Potable Water Revolving Fund to continue after July 1, 2024.

Sec. 6b. ANR REPORT ON REVOLVING LOAN FUNDS

On or before January 15, 2024, the Secretary of Natural Resources shall submit to the House Committee on Corrections and Institutions and the Senate Committee on Institutions a report summarizing the status of the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund

and the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund. The report shall include an accounting of the Funds, including the following information for each Fund as it existed at the end of fiscal year 2023:

- (1) the balance of funds in the Fund;
- (2) the amount of funds loaned or obligated from the Fund;
- (3) the amount of funds repaid to the Fund in fiscal year 2023; and
- (4) the amount of funds due for repayment to the Fund.

* * * Riparian Protection * * *

Sec. 7. ANR REPORT ON RIPARIAN PROTECTION PROGRAM

The Secretary of Natural Resources shall conduct a stakeholder process to develop recommendations on the implementation of a riparian protection program in the State. The stakeholder process shall address what elements of a riparian protection program should be implemented to protect water quality and aquatic habitat and what funding would be required to implement a riparian protection program. On or before December 15, 2023, the Secretary shall submit its recommendations on the implementation of a riparian protection program to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy.

* * * Clean Water Reporting * * *

Sec. 8. 10 V.S.A. § 1264(k) is amended to read:

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

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

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

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

Sec. 9. 10 V.S.A. § 1389a(b)(6) is amended to read:

(6) Beginning on January ~~2023~~ 2024, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of

this title should be amended to improve State implementation of the Clean Water Initiative.

Sec. 10. 2019 Acts and Resolves No. 76, Sec. 7 is amended to read:

Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT

TRADING

On or before July 1, ~~2022~~ 2024, 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~~ Environment and Energy, 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.

* * * ANR Enforcement Practices * * *

Sec. 11. 10 V.S.A. § 1527 is amended to read:

§ 1527. PENALTY

A person who violates a provision of this chapter shall be fined ~~not more than \$1,000.00 for each violation~~ in accordance with chapter 201 of this title.

Sec. 12. 10 V.S.A. § 6697 is amended to read:

§ 6697. CIVIL PENALTIES; WARNING

(a) A person, store, or food service establishment that violates the requirements of this subchapter shall:

~~(1) receive a written warning for a first offense;~~

~~(2) be subject to a civil penalty of \$25.00 for a second offense; and~~

~~(3) be subject to a civil penalty of \$100.00 for a third or subsequent offense~~ be fined in accordance with chapter 201 of this title.

(b) For the purposes of enforcement under this subchapter, an offense shall be each day a person, store, or food service establishment is violating a requirement of this subchapter.

Sec. 13. 24 V.S.A. § 2282 is amended to read:

§ 2282. PENALTY

A person who violates this subchapter shall be fined by the legislative body not less than \$5.00 nor more than \$50.00 for each day of the violation. A person who violates the requirements of this subchapter shall be fined by the Agency of Natural Resources in accordance with 10 V.S.A. chapter 201.

* * * Solid Waste Certification * * *

Sec. 14. 10 V.S.A. § 6605f(a) is amended to read:

(a) Disqualifying criteria. Any nongovernmental entity or person applying for a certification under section 6605, 6605a, or 6606 of this title, for interim certification under section 6605b of this title, ~~or for a waste transportation~~

~~permit under section 6607a of this title,~~ shall be denied certification or other authorization if the Secretary finds:

* * *

* * * DEC Procedural Requirements * * *

Sec. 15. 10 V.S.A. § 7716 is amended to read:

§ 7716. TYPE 5 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when issuing emergency permits and other permits listed in this section.

(2) The procedures under this section shall be known as Type 5 Procedures. This section shall govern each of the following:

* * *

(E) issuance of emergency sludge and septage disposal approvals under section 6605 of this title; ~~and~~

(F) shoreland registrations authorized under chapter 49A of this title; and

(G) issuance of authorization under the Construction General Permit or individual stormwater permits issued pursuant to chapter 47 of this title, for discharges of stormwater runoff related to emergency construction activities; emergency construction activities are those necessary to address imminent risk

to life or a risk of damage to public or private property, including damage to lifeline infrastructure, as determined by the Secretary.

(b) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin.

Sec. 16. 29 V.S.A. § 405(d) is added to read:

(d) A permit issued pursuant to this section shall be effective on the date that it is signed and issued to the applicant.

* * * Potable Water Supply * * *

Sec. 17. 10 V.S.A. § 1972(4) is amended to read:

(4)(A) “Failed supply” means a potable water supply:

(i) that has been found to exceed the standard set by the Secretary

in rule for one or more of the following contaminants:

(I) total coliform;

(II) nitrates;

(III) nitrites;

(IV) arsenic; or

(V) uranium;

(ii) that the Secretary affirmatively determines as not potable, due to the presence of a contaminated site, a leaking underground storage tank, or other known sources of groundwater contamination or naturally occurring

~~contaminants, and that information has been posted on the Agency of Natural Resources' website; or~~

(iii) the Secretary affirmatively determines to be failed due to the supply providing an insufficient quantity of water to maintain the usual and customary uses of a building or structure or campground, ~~and that information has been posted on the Agency of Natural Resources' website.~~

(B) Notwithstanding the provisions of this subdivision, a potable water supply shall not be a failed supply if:

(i) these effects can be and are remedied solely by minor repairs, including the repair of a broken pipe leading from a building or structure to a well, the replacement of a broken pump, repair or replacement of a mechanical component, or deepening or hydrofracturing a well; or

(ii) these effects have lasted for only a brief period of time, the cause of the failure has been determined to be an unusual and nonrecurring event, and the supply has recovered from the state of failure. Supplies that have recurring, continuing, or seasonal failures shall be considered to be failed supplies.

(C) If a project is served by multiple potable water supplies, the failure of one supply will not require the issuance of a permit or permit amendment for any other supply that is not in a state of failure.

* * * Petroleum Cleanup Fund Assistance Program * * *

Sec. 18. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

* * *

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2029 and judged to be in conformance with prevailing industry rates. This includes:

(1) Costs incurred by taking corrective action as directed by the Secretary for any release of petroleum into the environment from:

(A) An underground storage tank defined as a category one tank used for commercial purposes, provided disbursements on any site shall not exceed \$1,240,000.00 and shall be made from the Motor Fuel Account, as follows:

(i) after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of double-wall tank systems ~~used for commercial purposes~~ or single-wall tank systems that were either taken out of service or abandoned prior to July 1, 1985; and

~~(ii) after the first \$15,000.00 of cleanup costs have been borne by the owners or operators of combination tank systems, whether lined or unlined, used for commercial purposes, unless the system is a lined combination tank system that has been granted a five-year extension under subsection 1927(f) of this title;~~

~~(iii) after the first \$25,000.00 of cleanup costs have been borne by the owners or operators of lined combination tank systems that have been granted a five-year extension to operate under subsection 1927(f) of this title;~~

~~(iv) after the first \$25,000.00 of cleanup costs have been borne by the owners or operators of single wall tank systems used for commercial purposes.~~

(B) An underground motor fuel tank used for farming or residential purposes either after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with a capacity equal to or less than 1,100 gallons ~~and used for farming or residential purposes,~~ or after the first \$1,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons. Disbursements on any site shall not exceed ~~\$990,000.00~~ \$1,000,000.00 and shall be made from the Motor Fuel Account.

(C) An underground heating fuel tank used for on-premises heating after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements on any site shall not exceed ~~\$990,000.00~~ \$1,000,000.00 and shall be made from the Heating Fuel Account.

(D) An aboveground storage tank site after the first \$1,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements under this subdivision (b)(1)(D) on any individual site shall not exceed ~~\$25,000.00~~ \$50,000.00. These disbursements shall be made from the Motor Fuel Account or Heating Fuel Account, depending upon the use or contents of the tank.

(E) A bulk storage aboveground motor fuel or heating fuel storage tank site after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes. Disbursements under this subdivision (b)(1)(E) on any individual site shall not exceed

~~\$990,000.00~~ \$1,000,000.00. These disbursements shall be made from the Motor Fuel Account.

(F) If a site is contaminated by petroleum releases from both heating fuel and motor fuel tanks, or where the source of the petroleum contamination has not been ascertained, the Secretary shall have the discretion to disburse funds from either the Heating Fuel or Motor Fuel Account, or both.

(2) Costs incurred in compensating third parties for bodily injury and property damage, as approved by the Secretary in consultation with the Commissioner of Financial Regulation, caused by release of petroleum from an underground category one storage tank into the environment from a site, up to \$1 million, but shall not include payment of any punitive damages.

(3) Costs incurred in taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank or aboveground storage tank if, in the judgment of the Secretary, such action is necessary to protect the public health and the environment. The Secretary may seek reimbursement of the first \$10,000.00 of the costs.

(4) The cost of corrective action up to \$1 million for any release of petroleum into the environment from an underground storage tank or tanks:

(A) whose owner, in the judgment of the Secretary, is incapable of carrying out the corrective action; or

(B) whose owner or operator cannot be determined; or

(C) [Repealed.]

(D) whose owner, in the judgment of the Secretary, is financially incapable of carrying out the corrective action in a timely manner.

(5) [Repealed.]

(6) The costs of creating and operating a risk retention pool authorized by section 1939 of this title, which costs are in excess of a reasonable contribution by participants, as determined by the Secretary with the advice of the Commissioner of Financial Regulation. The authority for disbursements under this subdivision shall terminate on June 1, 1992.

(7) Administrative and field supervision costs incurred by the Secretary in carrying out the provisions of this subchapter. Annual disbursements shall not exceed 10 percent of annual receipts.

~~(8) The cost of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary.~~

[Repealed.]

(c) The Secretary may authorize disbursements from the Fund for costs of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary. The Secretary may seek

reimbursement of the costs, including any costs determined to be covered by insurance.

(d) The Secretary may use up to one-half the amount deposited to the Motor Fuel Account of the Fund from the licensing fees assessed under section 1942 of this title to capitalize the Underground Motor Fuel Storage Tank Loan Assistance Program established by section 1944 of this title and the cost of administering the Program. If the Secretary determines that a balance will remain after all qualifying loan applications have been satisfied, the unneeded balance may be used for cleanup. The Secretary may use the amount in the Heating Fuel Account of the Fund for purposes of funding measures related to heating oil and kerosene.

~~(d)~~(e) Disbursements from the Fund for cleanup costs incurred prior to passage shall be limited to uninsured costs.

~~(e)~~(f) The Secretary shall establish the Petroleum Cleanup Fund Advisory Committee that shall meet not less than annually to review receipts and disbursements from the Fund, to evaluate the effectiveness of the Fund in meeting its purposes and the reasonableness of the cost of cleanup and to recommend alterations and statutory amendments deemed appropriate. The Advisory Committee shall submit an annual report of its findings to the General Assembly on January 15 of each year. In its annual report, the Advisory Committee shall review the financial stability of the Fund, evaluate the implementation of assistance related to underground farm or residential

heating fuel storage tanks and aboveground storage tanks, and the need for continuing assistance, and shall include recommendations for sustainable funding sources to finance the provision of that assistance. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. The membership of the Committee shall include the following or their designated representative:

- (1) the Secretary of Natural Resources, who shall be chair;
- (2) the Commissioner of Environmental Conservation;
- (3) the Commissioner of Financial Regulation;
- (4) a licensed gasoline distributor;
- (5) a retail gasoline dealer;
- (6) a representative of a statewide refining-marketing petroleum association;
- (7) one member of the House to be appointed by the Speaker of the House;
- (8) one member of the Senate to be appointed by the Committee on Committees;
- (9) a licensed heating fuel dealer;
- (10) a representative of a statewide heating fuel dealers' association; and
- (11) a licensed real estate broker.

~~(f)~~(g) The Secretary may seek reimbursement to the Fund of cleanup expenditures only when the owner of the tank is in significant violation of his

~~or her~~ the owner's permit or rules, or when a required fee has not been paid for the tank from which the release occurred or, to the extent covered, when there is insurance coverage. When the Secretary has paid the first \$10,000.00 of costs under subdivision (b)(4)(D) of this section, the Secretary may seek reimbursement of those costs.

~~(g)~~(h) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank or replace their heating fuel system with advanced wood heat or a heat pump may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to: ~~\$2,000.00~~ \$3,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an aboveground storage tank located inside a structure; up to ~~\$3,000.00~~ \$4,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an aboveground storage tank located outside a structure; ~~and up to \$4,000.00~~ \$5,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an underground storage tank; and up to \$4,000.00 or the actual cost of replacing their heating system with advanced wood heat or a heat pump, whichever amount is less. As used in this subsection, “structure” means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property

owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary's recommended standards. The Secretary shall also give priority to ~~lower-income~~ lower-income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information and, if the replacement tank is an aboveground tank, must ensure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the Secretary. The Secretary shall authorize only up to ~~\$400,000.00~~ \$500,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from

the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

- (1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;
- (2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;
- (3) identification of the contractor performing any heating fuel storage tank closure, replacement, ~~or~~ upgrade, or system replacement;
- (4) an estimated cost of tank closure, replacement, ~~or~~ upgrade, or system replacement;
- (5) the amount and type of assistance requested;
- (6) a schedule for the work;
- (7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and
- (8) such other information and assurances as the Secretary may require.

* * * Effective Date * * *

Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

Date Governor signed bill: June 28, 2023