

1 H.387

2 Introduced by Representative Sheldon of Middlebury

3 Referred to Committee on

4 Date:

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

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 does not
7 enter the waters of the State, drinking water, or groundwater. Therefore, it is
8 State policy that all farms comply with water quality standards under this
9 subchapter that eliminate or reduce the discharge or runoff of agricultural
10 waste to waters of the State, drinking water, or groundwater.

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; fertilizers; minerals, including
16 heavy metals; pesticides; organic wastes, including livestock waste, animal
17 mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and
18 viruses; thermal pollution; silage runoff; untreated milk house waste; rinse or
19 process water from any manufacturing process; and any other farm waste as
20 the term “waste” is defined in section 1251 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;

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; or

17 (H) the importation of 2,000 cubic yards per year or less of food
18 residuals or food processing residuals onto a farm for the production of
19 compost, provided that:

20 (i) the compost is principally used on the farm where it is
21 produced; or

1 (ii) the compost is produced on a small farm that raises or
2 manages poultry.

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

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

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

1 (10) “Medium farm” means an AFO that houses 200 to 699 mature
2 dairy animals; 300 to 999 cattle or cow and calf pairs; 300 to 999 veal calves;
3 750 to 2,499 swine weighing over 55 pounds; 3,000 to 9,999 swine weighing
4 55 pounds or less; 150 to 499 horses; 3,000 to 9,999 sheep or lambs; 16,500 to
5 54,999 turkeys; 9,000 to 29,999 laying hens or broilers with a liquid manure
6 handling system; 25,000 to 81,999 laying hens without a liquid manure
7 handling system; 37,500 to 124,999 chickens other than laying hens without a
8 liquid manure handling system; 1,500 to 4,999 ducks with a liquid manure
9 handling system; 10,000 to 29,999 ducks without a liquid manure handling
10 system; or other livestock types, combinations, or numbers as designated by
11 the Secretary by rule.

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

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

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

15 (B) that house not more than 199 mature dairy animals, 299 cattle or
16 cow and calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999
17 swine weighing 55 pounds or less, 149 horses, 2,999 sheep or lambs, 16,499
18 turkeys, 8,999 laying hens or broilers with a liquid manure handling system,
19 24,999 laying hens without a liquid manure handling system, 37,499 chickens
20 other than laying hens without a liquid manure handling system, 1,499 ducks

1 with a liquid manure handling system, or 9,999 ducks without a liquid manure
2 handling system; and

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

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

7 § 1322. AUTHORITY TO ADMINISTER AGRICULTURAL NONPOINT
8 SOURCE CONTROL RULES

9 (a) Transfer of authority. The Secretary of Natural Resources is transferred
10 the authority to administer and enforce the Large Farm Operation Rules (Large
11 Farm Rules), the Medium and Small Farm Operation Rules for Issuance of
12 General and Individual Permits (Medium Farm Rules), certification of small
13 farms, and the Required Agricultural Practices Rule for the Agricultural
14 Nonpoint Source Pollution Control Program (Required Agricultural Practices
15 or RAPs) of the Agency of Agriculture, Food and Markets, as those rules exist
16 on July 1, 2027.

17 (b) Amendment of existing rules. The Secretary of Natural Resources may,
18 in consultation with the Secretary of Agriculture, Food, and Markets, amend,
19 repeal, or replace the Large Farm Rules, Medium Farm Rules, small farm
20 certification, or the RAPs at any time in accordance with the requirements of 3
21 V.S.A. chapter 25, provided that:

1 (1) The Secretary of Natural Resources shall repeal the Large Farm
2 Rules and Medium Farm Rules not later than January 1, 2028.

3 (2) The Secretary of Natural Resources, in consultation with the
4 Secretary of Agriculture, Food and Markets, shall promulgate a large farm
5 general agricultural water quality permit pursuant to section 1325 of this
6 subchapter not later than January 1, 2028.

7 (3) The Secretary of Natural Resources, in consultation with the
8 Secretary of Agriculture, Food and Markets, shall promulgate a medium farm
9 general agricultural water quality permit pursuant to section 1325 of this
10 subchapter not later than January 1, 2028.

11 (4) The Secretary of Natural Resources, in consultation with the
12 Secretary of Agriculture, Food and Markets, shall review the RAPs for
13 conformity with the purposes and requirements of this subchapter and reissue
14 the RAPs pursuant to section 1323 of this subchapter not later than January 1,
15 2030 and every seven years thereafter.

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

19 § 1323. REQUIRED AGRICULTURAL PRACTICES

20 (a) The Secretary of Natural Resources shall, in consultation with the
21 Secretary of Agriculture, Food and Markets, adopt by rule the RAPs in order to

1 control nonpoint sources of agricultural waste to waters of the State. The
2 Secretary of Natural Resources shall implement and enforce the RAPs.

3 (b) The RAPs shall be management standards to be followed by all persons
4 engaged in farming in this State in order to improve water quality in the State
5 and assure that practices on farms eliminate adverse impacts to water quality.

6 These standards shall address activities that have a potential for causing
7 agricultural pollutants to enter the groundwater and waters of the State,
8 including dairy and other livestock operations plus all forms of crop and
9 nursery operations and on-farm or agricultural fairground, registered pursuant
10 to 20 V.S.A. § 3902, and livestock and poultry slaughter and processing
11 activities. The RAPs shall include, as well as promote and encourage,
12 practices for farmers in preventing agricultural waste from entering the
13 groundwater and waters of the State when engaged in animal waste
14 management and disposal, soil amendment applications, plant fertilization, and
15 pest and weed control. The RAPs shall be designed to protect water quality
16 and shall be practical and cost effective to implement, as determined by the
17 Secretary. Where the Secretary determines, after inspection of a farm, that a
18 person engaged in farming is complying with the RAPs but there still exists the
19 potential for agricultural pollutants to enter the waters of the State, the
20 Secretary shall require the person to implement additional, site-specific on-
21 farm conservation practices designed to prevent agricultural pollutants from

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

10 (c) At a minimum, the RAPs shall:

11 (1) Specify those farms that:

12 (A) are required to comply with the small farm certification
13 requirements under section 1325 of this title due to the potential impact of the
14 farm or type of farm on water quality as a result of livestock managed on the
15 farm, agricultural inputs used by the farm, or tillage practices on the farm; and

16 (B) shall be subject to the RAPs, but shall not be required to comply
17 with small farm certification requirements under section 1325 of this title.

18 (2)(A) Prohibit a farm from stacking or piling manure, storing fertilizer,
19 or storing other nutrients on the farm:

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

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

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

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

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

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

16 (A) required nutrient management planning on all farms that manage
17 agricultural wastes; and

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

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

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

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

17 (8) Regulate, in a manner consistent with the flood hazard area and river
18 corridor rules, the construction or siting of a farm structure or the storage of
19 manure, fertilizer, or pesticides within a designated river corridor.

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

1 (10) Include requirements for reducing nutrient contribution to waters of
2 the State from subsurface tile drainage. Upon adoption of requirements for
3 subsurface tile drainage, the Secretary may require an existing subsurface tile
4 drain to comply with the requirements of the RAPs for subsurface tile drainage
5 upon a determination that compliance is necessary to reduce adverse impacts to
6 water quality from the subsurface tile drain.

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

13 § 1324. BEST MANAGEMENT PRACTICES

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

1 require soil monitoring or innovative manure management as a BMP under this
2 subsection. Soil monitoring or innovative manure management implemented
3 as a BMP shall be eligible for State assistance under the Clean Water Fund
4 established under section 1388 of this title.

5 § 1325. AGRICULTURAL WATER QUALITY PERMIT

6 (a) No person shall operate a large farm or a medium farm without
7 coverage under an agricultural water quality permit issued pursuant to this
8 section, unless the farm is covered by a permit issued pursuant to section 1263
9 of this title as a concentrated animal feeding operation.

10 (b) The Secretary shall require a small farm to obtain coverage under an
11 agricultural water quality permit if the Secretary determines, after review of
12 the farm's record of compliance, the farm's application of the RAPs, and other
13 relevant factors, that the farm is likely to be a significant contributor of
14 agricultural waste to waters of the State, drinking water, or groundwater,
15 unless the farm is covered by a permit issued pursuant to section 1263 of this
16 title as a concentrated animal feeding operation. The Secretary may waive an
17 agricultural water quality permit required under this subsection if the Secretary
18 determines, after review of the farm's record of compliance, the farm's
19 application of the RAPs, and other relevant factors, that the farm is no longer
20 likely to be significant contributor of agricultural waste to waters of the State,
21 drinking water, or groundwater.

1 (c) The Secretary of Natural Resources, in consultation with the Secretary
2 of Agriculture, Food and Markets, may issue general agricultural water quality
3 permits or individual water quality permits to ensure that agricultural waste
4 does not enter waters of the State, drinking water, or groundwater.

5 (1) Each agricultural water quality permit shall be issued according to
6 the procedural requirements of subsection 1263(b) of this title.

7 (2) Each agricultural water quality permit shall be valid for the period of
8 time specified in the permit, but the term shall not exceed five years.

9 (3) Prior to the expiration of each general agricultural water quality
10 permit, the Secretary of Natural Resource, in consultation with the Secretary of
11 Agriculture, Food and Markets, shall review the terms and conditions of the
12 permit and may issue subsequent permits with the same or different conditions
13 as necessary to carry out the purposes of this subchapter.

14 (4) Each individual agricultural water quality permit may be renewed
15 upon application to the Secretary. Upon application, the Secretary shall review
16 the terms and conditions of the permit, the farm's record of compliance, the
17 farm's application of the RAPs, and other relevant factors and may issue
18 subsequent permits with the same or different conditions as necessary to carry
19 out the purposes of this subchapter.

20 (5) Each agricultural water quality permit shall:

1 (A) include terms and conditions appropriate to each farm size
2 category and each farm animal type as defined by section 1321 of this
3 subchapter;

4 (B) prohibit the discharge of agricultural waste to waters of the State,
5 including from subsurface tile drains;

6 (C) require compliance with the RAPs;

7 (D) set standards at least as stringent as those established by federal
8 regulations for concentrated animal feeding operations that shall address waste
9 management, waste storage, development of nutrient management plans,
10 carcass disposal, and other matters necessary to protect surface water, drinking
11 water, and groundwater from contamination by agricultural waste; and

12 (E) include recordkeeping, reporting, and monitoring provisions to
13 ensure that the terms and conditions of the permit are being met.

14 (6) No general agricultural water quality permit may offer coverage to
15 farms of more than one farm size category defined by section 1321 of this
16 subchapter.

17 (7) The Secretary shall require the operator of a farm applying for
18 coverage or applying to renew coverage under an agricultural water quality
19 permit to:

20 (A) certify that there will be no discharge of agricultural waste from
21 the farm to waters of the State;

1 (B) certify that the farm is in compliance and will remain in
2 compliance with the RAPs;

3 (C) provide to the Secretary evidence that the farm maintains an
4 adequately sized and designed manure management system to accommodate
5 the agricultural waste generated;

6 (D) provide to the Secretary evidence that the farm implements a
7 current, field-by-field nutrient management plan consistent with the
8 requirements of the U.S. Department of Agriculture’s Natural Resource
9 Conservation Service Nutrient Management Practice Code 590 or other
10 equivalent standards approved by the Secretary; and

11 (E) provide to the Secretary any other information and evidence that
12 the Secretary, in consultation with the Secretary of Agriculture, Food and
13 Markets, determines is necessary to assess the operator’s application for
14 coverage.

15 (8) The Secretary shall:

16 (A) provide public notice of the fact that a farm has applied for
17 coverage or applied to renew coverage under an agricultural water quality
18 permit; and

19 (B) provide a process by which interested persons can obtain detailed
20 information about the nature and extent of the activity proposed to receive
21 coverage under an agricultural water quality permit, including certifications,

1 evidence, and information provided by the operator to the Secretary pursuant
2 to this subsection.

3 (d) The Secretary may inspect a farm covered by an agricultural water
4 quality permit at any time. The Secretary shall inspect a farm covered by an
5 agricultural water quality permit not less than:

6 (1) once per year, if the farm is a large farm;

7 (2) once every three years, if the farm is a medium farm; and

8 (3) once every five years, if the farm is a small farm.

9 (e) The Secretary may require a farm covered by a general agricultural
10 water quality permit issued pursuant to this section to apply for coverage under
11 an individual agricultural water quality permit at any time.

12 (f) The Secretary shall require an operator of a large farm, a medium farm,
13 or a small farm that the Secretary has required to obtain an agricultural water
14 quality permit under this section, to obtain a discharge permit under section
15 1263 of this title upon a determination of one or both of the following:

16 (1) the farm is discharging or has discharged agricultural wastes to a
17 water of the State; or

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

1 (g) Coverage of a farm under a general agricultural water quality permit or
2 an individual agricultural water quality permit adopted pursuant to this section
3 is rendered void by the issuance of a permit to a farm under section 1263 of
4 this title.

5 (h) The Secretary shall establish a process under which the Agency shall
6 receive, investigate, and respond to a complaint that a farm covered by an
7 agricultural water quality permit has violated the terms of the permit or
8 discharged agricultural waste to waters of the State.

9 (i) The Secretary shall establish a process under which the Agency shall
10 receive, investigate, and respond to a complaint that a small farm not covered
11 by an agricultural water quality permit is likely to be a significant contributor
12 of agricultural waste to waters of the State, drinking water, or groundwater.

13 § 1326. SMALL FARM CERTIFICATION; INSPECTION

14 (a) A person who owns or operates a small farm shall submit to the
15 Secretary a form certifying whether or not the small farm complies with the
16 RAPs.

17 (b) The Secretary may inspect a small farm in the State at any time for the
18 purposes of assessing compliance by the small farm with the RAPs and
19 determining consistency with a certification of compliance submitted by the
20 person who owns or operates the small farm. The Secretary may prioritize
21 inspections of small farms in the State based on identified water quality issues

1 posed by a small farm. The Secretary may amend the RAPs to establish the
2 required frequency of inspection of small farms, but the frequency shall be not
3 less than once every seven years.

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

8 (d)(1) During an inspection of a small farm under this section, the
9 Secretary shall identify areas where the farm could benefit from capital,
10 structural, or technical assistance in order to improve or come into compliance
11 with the RAPs and any applicable State water quality permit or certification
12 required under this chapter.

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

19 § 1327. SEASONAL APPLICATION OF MANURE

20 (a) A person shall not apply manure to land in the State between December
21 15 and April 1 of any calendar year unless authorized by this section.

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

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

16 (1) prohibit application of manure:

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

19 (B) in nonharvested permanent vegetative buffers;

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

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

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

7 (F) to saturated soils;

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

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

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

14 § 1328. AGRICULTURE WATER QUALITY TRAINING

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

19 (1) the prevention of discharges, including discharges from subsurface
20 tile drains;

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

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

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

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

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

11 (b) Owners or operators of certified small farms, permitted small farms,
12 permitted medium farms, or permitted large farms shall obtain four hours of
13 approved training at least once every five years. This requirement will
14 commence upon notice from the Secretary.

15 (c) The Secretary may approve training offered by other entities upon
16 request of the entity providing the training. All requests for approval to train
17 shall be provided to the Secretary at least 30 days prior to the scheduled
18 training dates. The entity shall be required to submit information about the
19 training and attendees in a manner requested by the Secretary.

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

21 § 1259. PROHIBITIONS

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

11 * * *

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

1 stormwater runoff or the discharge of nonpolluting wastes, as defined by the
2 Secretary.

3 * * *

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

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

13 * * *

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

15 (d) Exemptions.

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

17 (A) Stormwater runoff from farms in compliance with ~~agricultural~~
18 ~~practices adopted by the Secretary of Agriculture, Food and Markets, provided~~
19 ~~that this exemption shall not apply to construction stormwater permits required~~
20 ~~by subdivision (c)(4) of this section~~ the agricultural water quality requirements
21 of subchapter 2B of this chapter.

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

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

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

9 * * *

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

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

17 * * * Agency of Agriculture, Food and Markets; Repeal of Regulatory

18 Authority Over Agricultural Water Quality * * *

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

20 Subchapter 1. General Provisions

21 § 4801. ~~PURPOSE; STATE POLICY~~

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

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

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

17 ~~(A) shall educate farmers and other affected citizens on requirements~~
18 ~~of this chapter through an outreach collaboration with farm associations and~~
19 ~~other community groups;~~

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

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

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

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

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

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

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

17 [Repealed.]

18 § 4810a. ~~REQUIRED AGRICULTURAL PRACTICES; REVISION~~

19 (a) ~~The Secretary of Agriculture, Food and Markets shall maintain the~~
20 ~~required agricultural practices in order to improve water quality in the State,~~
21 ~~assure practices on all farms eliminate adverse impacts to water quality, and~~

1 ~~implement the small farm certification program required by section 4871 of~~
2 ~~this title. At a minimum, the required agricultural practices shall:~~

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

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

8 ~~(B) shall be subject to the required agricultural practices, but shall not~~
9 ~~be required to comply with small farm certification requirements under section~~
10 ~~4871 of this title.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(7) [Repealed.]~~

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

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

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

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

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

19 ~~(c) The Secretary shall amend the required agricultural practices to include~~
20 ~~requirements for activities occurring in areas that are excluded from regulation~~

1 ~~by the Agency of Natural Resources under 10 V.S.A. § 902 because the area is~~
2 ~~used to grow food or crops in connection with farming activities. [Repealed.]~~

3 § 4811. POWERS OF SECRETARY

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

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

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

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

14 (4) ~~Sign memorandums of understanding between agencies when the~~
15 ~~Secretary of Agriculture, Food and Markets agrees it is necessary for the~~
16 ~~success of the program. [Repealed.]~~

17 (5) Solicit and receive federal or private funds.

18 (6) Cooperate fully with the federal government or other agencies in the
19 operation of any joint federal-state programs concerning the regulation of
20 agricultural ~~non-point~~ nonpoint source pollution.

1 ~~(7) Establish programs to improve agricultural water quality.~~

2 ~~[Repealed.]~~

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

10 ~~§ 4813. BASIN MANAGEMENT; APPEALS TO THE ENVIRONMENTAL~~
11 ~~DIVISION~~

12 ~~(a) The Secretary of Agriculture, Food and Markets shall cooperate with~~
13 ~~the Secretary of Natural Resources in the basin planning process with regard to~~
14 ~~the agricultural non-point source waste component of each basin plan. Any~~
15 ~~person with an interest in the agricultural non-point source component of the~~
16 ~~basin planning process may petition the Secretary of Agriculture, Food and~~
17 ~~Markets to require, and the Secretary may require, best management practices~~
18 ~~in the individual basin beyond required agricultural practices adopted by rule,~~
19 ~~in order to achieve compliance with the water quality goals in 10 V.S.A. §~~
20 ~~1250 and any duly adopted basin plan. The Secretary of Agriculture, Food and~~

1 ~~Markets shall hold a public hearing within 60 days and shall issue a timely~~
2 ~~written decision that sets forth the facts and reasons supporting the decision.~~

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

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

12 * * *

13 § 4815. WASTE STORAGE FACILITY

14 * * *

15 (d) As used in this section, ~~“waste storage facility”~~:

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

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

1 § 4816. ~~SEASONAL APPLICATION OF MANURE~~

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

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

13 ~~(c) Seasonal exemption. The Secretary of Agriculture, Food and Markets~~
14 ~~shall amend the required agricultural practices by rule in order to establish a~~
15 ~~process under which the Secretary may authorize an exemption to the~~
16 ~~prohibition on the application of manure to land in the State between~~
17 ~~December 15 and April 1 of any calendar year or during any period established~~
18 ~~under subsection (b) of this section when manure is prohibited from~~
19 ~~application. Any process established for the issuance of an exemption under~~
20 ~~the required agricultural practices may authorize land application of manure on~~

1 a weekly, monthly, or seasonal basis or in authorized regions, areas, or fields in
2 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 surface waters, including ditches and ravines;

6 (B) in nonharvested permanent vegetative buffers;

7 (C) in a nonfarmed wetland, as that term is defined in 10 V.S.A. §
8 902(5);

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

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

12 (F) to saturated soils;

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

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

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

19 * * *

1 Subchapter 3. Water Quality; Financial and Technical Assistance

2 § 4820. DEFINITIONS

3 As used in this subchapter:

4 (1) “RAPs” means “~~required agricultural practices~~ Required
5 Agricultural Practices” as defined by the Secretary of ~~Agriculture, Food and~~
6 ~~Markets pursuant to subchapter 1 of this chapter~~ Natural Resources under
7 10 V.S.A. chapter 47.

8 * * *

9 § 4823. PRIORITIES; STATE FINANCIAL ASSISTANCE AWARDS

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

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

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

16 (c) The owner or operator of a farm with a waste storage facility may apply
17 in writing to the Secretary of Agriculture, Food and Markets for a State
18 assistance grant for the costs of complying with the U.S. Department of
19 ~~Agriculture~~ Agriculture's Natural Resources Conservation Service
20 requirements for inspection of a waste storage facility. ~~Such~~ The grants shall
21 not exceed 90 percent of the cost of the inspection of the waste storage facility.

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

3 * * *

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

5 § 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

6 (a) No person shall, without a permit from the Secretary, construct a new
7 barn, or expand an existing barn, designed to house more than 700 mature
8 dairy animals, 1,000 cattle or ~~cow/calf~~ cow and calf, 1,000 veal calves,
9 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than
10 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying
11 hens or broilers with a liquid manure handling system, 82,000 laying hens
12 without a liquid manure handling system, 125,000 chickens other than laying
13 hens without a liquid manure handling system, 5,000 ducks with a liquid
14 manure handling system, or 30,000 ducks without a liquid manure handling
15 system. No permit shall be required to replace an existing barn in use for
16 livestock or domestic fowl production at its existing capacity. ~~The Secretary of~~
17 ~~Agriculture, Food and Markets, in consultation with the Secretary of Natural~~
18 ~~Resources, shall review any application for a permit under this section with~~
19 ~~regard to water quality impacts and, prior to approval of a permit under this~~
20 ~~subsection, shall issue a written determination regarding whether the applicant~~
21 ~~has established that there will be no unpermitted discharge to waters of the~~

1 State pursuant to the federal regulations for concentrated animal feeding
2 operations. ~~If upon review of an application for a permit under this subsection,~~
3 ~~the Secretary of Agriculture, Food and Markets determines that the permit~~
4 ~~applicant may be discharging to waters of the State, the Secretary of~~
5 ~~Agriculture, Food and Markets and the Secretary of Natural Resources shall~~
6 ~~respond to the discharge in accordance with the memorandum of~~
7 ~~understanding regarding concentrated animal feeding operations under section~~
8 ~~4810 of this title. The Secretary of Natural Resources may require a large farm~~
9 ~~to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for~~
10 ~~concentrated animal feeding operations.~~

11 (b) ~~A person shall apply for a permit in order to operate a farm which~~
12 ~~exceeds 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal~~
13 ~~calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than~~
14 ~~55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying~~
15 ~~hens or broilers with a liquid manure handling system, 82,000 laying hens~~
16 ~~without a liquid manure handling system, 125,000 chickens other than laying~~
17 ~~hens without a liquid manure handling system, 5,000 ducks with a liquid~~
18 ~~manure handling system, or 30,000 ducks if the livestock or domestic fowl are~~
19 ~~in a barn or adjacent barns owned by the same person, or if the barns share a~~
20 ~~common border or have a common waste disposal system. In order to receive~~
21 ~~this permit, the person shall demonstrate to the Secretary that the farm has an~~

1 ~~adequately sized manure management system to accommodate the wastes~~
2 ~~generated and a nutrient management plan to dispose of wastes in accordance~~
3 ~~with required agricultural practices adopted under this chapter and current U.S.~~
4 ~~Department of Agriculture nutrient management standards. [Repealed.]~~

5 (c) The Secretary of Agriculture, Food, and Markets, in consultation with
6 the Secretary of Natural resources, shall approve, condition, or disapprove the
7 application within 45 business days of the date of receipt of a complete
8 application for a permit under this section. Failure to act within the 45
9 business days shall be deemed approval.

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

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

19 (f) Before granting a permit under this section, the Secretary shall make an
20 affirmative finding that the animal wastes generated by the construction or
21 expansion will be stored so as not to generate runoff from a 25-year, 24-hour

1 storm event and shall be disposed of, in accordance with the ~~required~~
2 ~~agricultural practices adopted under this chapter~~ Required Agricultural
3 Practices administered by the Secretary of Natural Resources and current
4 U.S. Department of Agriculture nutrient management standards.

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

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

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

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

18 (a) 6 V.S.A. chapter 215, subchapter 5 (animal waste permits for medium
19 farms and small farms) shall be repealed on January 1, 2027.

20 (b) 6 V.S.A. chapter 215, subchapter 5A (small farm certification) shall be
21 repealed on January 1, 2027.

1 (c) 6 V.S.A. chapter 215, subchapter 10 (agricultural water quality
2 enforcement) shall be repealed on January 1, 2027.

3 * * * Conforming Changes to Statute * * *

4 Sec. 9. 6 V.S.A. § 366(g) is amended to read:

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

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

11 Sec. 10. 6 V.S.A. § 563(d) is amended to read:

12 (d) The cultivation of industrial hemp shall be subject to and comply with
13 the ~~required agricultural practices adopted under section 4810 of this title~~
14 Required Agricultural Practices, as amended.

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

16 (b) The registrant shall pay an annual fee of \$200.00 for each product
17 registered, and \$185.00 of that amount shall be deposited in the special fund
18 created in section 929 of this title. Of the registration fees collected under this
19 subsection, \$15.00 of the amount collected shall be deposited in the
20 ~~Agricultural Water Quality Special Fund under section 4803 of this title~~ Clean
21 Water Fund established under 10 V.S.A. § 1388. Of the registration fees

1 collected under this subsection, \$25.00 of the amount collected shall be used to
2 offset the additional costs of inspection of economic poison products and to
3 provide educational services, training, and technical assistance to pesticide
4 applicators, beekeepers, and the general public regarding the effects of
5 pesticides on pollinators and the methods or best management practices to
6 reduce the impacts of pesticides on pollinators. The annual registration year
7 shall be from December 1 to November 30 of the following year.

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

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

16 chapter 25, adopt rules to address the following:

17 * * *

18 (C) The protection of wetlands that have been determined under
19 subdivision (A) or (B) of this subdivision (18) to be significant, including rules
20 that provide for the issuance or denial of permits and the issuance of wetland
21 determinations by the Department under this chapter; provided, however, that

1 the rules may only protect the values and functions sought to be preserved by
2 the designation. The Department ~~shall not adopt rules that restrain agricultural~~
3 ~~activities without the consent of the Secretary of Agriculture, Food and~~
4 ~~Markets and~~ shall not adopt rules that restrain silvicultural activities without
5 the consent of the Commissioner of Forests, Parks and Recreation.

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

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

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

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

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

18 Sec. 14. 10 V.S.A. § 1387 is amended to read:

19 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

20 (a)(1) The State has committed to implementing a long-term Clean Water
21 Initiative to provide mechanisms, staffing, and financing necessary to achieve

1 and maintain compliance with the Vermont Water Quality Standards for all
2 State waters.

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

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

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

9 (C) the Agency of Natural Resources' Combined Sewer Overflow
10 Rule;

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

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

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

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

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

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

9 (2) fund staff positions at the Agency of Natural Resources, ~~Agency of~~
10 ~~Agriculture, Food and Markets~~, or the Agency of Transportation when the
11 positions are necessary to achieve or maintain compliance with water quality
12 requirements and existing revenue sources are inadequate to fund the necessary
13 positions; and

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

16 Sec. 15. 10 V.S.A. § 1389(b) is amended to read:

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

19 (1) the Secretary of Administration or designee;

20 (2) the Secretary of Natural Resources or designee;

1 (3) ~~the Secretary of Agriculture, Food and Markets or designee;~~

2 [Repealed.]

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

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

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

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

12 § 1389b. CLEAN WATER FUND AUDIT

13 (a) On or before January 15, 2023, the Secretary of Administration shall
14 submit to the House and Senate Committees on Appropriations, the Senate
15 Committee on Finance, the House Committee on Ways and Means, the Senate
16 Committee on Agriculture, the House Committee on Agriculture, Food
17 Resiliency, and Forestry, the Senate Committee on Natural Resources and
18 Energy, and the House Committee on ~~Natural Resources, Fish, and Wildlife~~
19 Environment and Energy a program audit of the Clean Water Fund. The audit
20 shall include:

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

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

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

7 and

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

11 (5) ~~an assessment of the capacity of the Department of Environmental~~
12 ~~Conservation to effectively administer and enforce agricultural water quality~~
13 ~~requirements on farms in the State; and [Repealed.]~~

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

17 (b) The audit required by this section shall be conducted by a qualified,
18 independent environmental consultant or organization with knowledge of the
19 federal Clean Water Act, State water quality requirements and programs, the
20 Lake Champlain Total Maximum Daily Load plan, and the program elements
21 of the State ~~clean water initiative~~ Clean Water Initiative.

1 (c) Notwithstanding provisions of section 1389 of this title to the contrary,
2 the Secretary of Administration shall pay for the costs of the audit required
3 under this section from the Clean Water Fund, established under section 1388
4 of this title.

5 Sec. 17. 10 V.S.A. § 1446(b) is amended to read:

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

8 * * *

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

11 (A) no impervious surface shall be created or expanded in a protected
12 shoreland area except: when no alternative outside the protected shoreland area
13 exists, the construction of a best management practice is necessary to abate an
14 agricultural water quality issue, and the best management practice is approved
15 by the Secretary of ~~Agriculture, Food and Markets under 6 V.S.A. chapter 215~~
16 Natural Resources under chapter 47, subchapter 2B of this title; and

17 (B) the agricultural activities within the protected shoreland area
18 comply with the rules adopted by the Secretary of ~~Agriculture, Food and~~
19 ~~Markets under 6 V.S.A. chapter 215~~ Natural Resources under chapter 47,
20 subchapter 2B of this title regarding agricultural water quality, including
21 ~~required agricultural practices~~ agricultural water quality permits, Required

1 Agricultural Practices, best management practices, medium and small farm
2 operation, and large farm operation.

3 * * *

4 Sec. 18. 10 V.S.A. § 1671(8) is amended to read:

5 (8) “Required ~~agricultural practices~~ Agricultural Practices” shall be as
6 defined by the Secretary of ~~Agriculture, Food and Markets under 6 V.S.A.~~
7 ~~§ 4810~~ Natural Resources under chapter 47 of this title.

8 Sec. 19. 10 V.S.A. § 1679(c) is amended to read:

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

1 Secretary in filing the final proposed rule with the Legislative Committee on
2 Administrative Rules.

3 Sec. 20. 10 V.S.A. § 6001(3)(E) is amended to read:

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

16 Sec. 21. 24 V.S.A. § 4412(11) is amended to read:

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

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

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

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

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

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

1 (iii) "Farming" shall have the same meaning as in 10 V.S.A. §
2 6001.

3 (iv) "Qualifying product" means a product that is wholly:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 Sec. 22. 24 V.S.A. § 4413(d)(1) is amended to read:

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

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

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

6 (C) forestry operations.

7 Sec. 23. 32 V.S.A. § 3752(5)(D) is amended to read:

8 (D) “Development” also means notification of the Director by the
9 Secretary of ~~Agriculture, Food and Markets~~ Natural Resources under section
10 3756 of this title that the owner or operator of agricultural land or a farm
11 building is violating the water quality requirements of ~~6 V.S.A. chapter 215~~ 10
12 V.S.A. chapter 47 or is failing to comply with the terms of an order issued
13 under ~~6 V.S.A. chapter 215, subchapter 10~~ 10 V.S.A. chapters 201 and 211.

14 Sec. 24. 32 V.S.A. § 3756(i) is amended to read:

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

1 removal from use value appraisal for a period of one year at a time to allow
2 time to bring the parcel into conformance with the plan.

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

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

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

17 (B) The Director shall notify the owner that agricultural land or a
18 farm building has been removed from use value appraisal by mailing
19 notification of removal to the owner or operator's last and usual place of
20 abode. After removal of agricultural land or a farm building from use value
21 appraisal under this section, the Director shall not consider a new application

1 for use value appraisal for the agricultural land or farm building until the
2 Secretary of ~~Agriculture, Food and Markets~~ Natural Resources submits to the
3 Director a certification that the owner or operator of the agricultural land or
4 farm building is complying with the water quality requirements of ~~6 V.S.A.~~
5 ~~chapter 215~~ 10 V.S.A. chapter 47 or an order issued under ~~6 V.S.A. chapter~~
6 ~~215~~ 10 V.S.A. chapters 201 and 211. After submission of a certification by the
7 Secretary of ~~Agriculture, Food and Markets~~ Natural Resources, an owner or
8 operator shall be eligible to apply for enrollment of the agricultural land or
9 farm building according to the requirements of this section.

10 Sec. 25. 32 V.S.A. § 3758(e) is amended to read:

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

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

16 Sec. 26. 3 V.S.A. § 2822(j) is amended to read:

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

20 * * *

1 10 V.S.A. chapter 47 on or before January 1, 2028. 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, 2027 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, 2027 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, 2027.

13 (c) Budget and staffing. On or before January 15, 2026, 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, 2027 the agricultural water quality requirements of 10 V.S.A.
20 chapter 47, subchapter 2B.

