

1 S.80

2 An act relating to miscellaneous environmental conservation subjects

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

4 * * * Dam Registration and Design Standards * * *

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

6 Sec. 2. DAM REGISTRATION PROGRAM REPORT

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

12 (1) an evaluation of the dam registration program under 10 V.S.A.
13 chapter 43;

14 (2) a recommendation on whether to modify the fee structure of the dam
15 registration program;

16 (3) a summary of the dams registered under the program, organized by
17 amount of water impounded and hazard potential classification; and

18 (4) an evaluation of any other dam safety concerns related to dam
19 registration.

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

2 Sec. 3. ADOPTION OF RULES

3 The Secretary of Natural Resources shall adopt the rules required under
4 10 V.S.A. § 1110 as follows:

5 (1) the rules required under 10 V.S.A. § 1110(1) (exemptions),
6 § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification),
7 § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted
8 on or before July 1, 2020; and

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

11 * * * Public Waters; Encroachment * * *

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

13 (7) “Public waters” means navigable waters excepting those waters in
14 private ponds and private preserves as set forth in 10 V.S.A. ~~chapter 119~~
15 § 1442.

16 * * * Salvage Yards * * *

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

18 (d) No person may deliver salvage vehicles to or operate a mobile salvage
19 vehicle crusher at a salvage yard that does not hold a certificate of registration
20 under this subchapter. A salvage yard holding a certificate of registration
21 under this subchapter shall post a copy of its current certificate in a clearly

1 visible location in the proximity of each entrance to the salvage yard.
2 Notwithstanding any other provision of law to the contrary, a salvage yard that
3 does not hold a certificate of registration under this subchapter may operate a
4 mobile salvage vehicle crusher with a liquids collection system, in accordance
5 with the rules adopted under this subchapter for vehicle crushing, for the
6 purpose of closing the salvage yard after first notifying the Secretary in writing
7 of the intent to close the salvage yard.

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

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

10 § 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

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

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

18 * * *

19 (10) The Vermont Wastewater and Potable Water Revolving Loan
20 Fund, which shall be used to provide loans to individuals, in accordance with
21 section 4763b of this title, for the design and construction of repairs to or

1 replacement of wastewater systems and potable water supplies when the
2 wastewater system or potable water supply is a failed system or supply as
3 defined in 10 V.S.A. § 1972, or when a designer demonstrates that the
4 wastewater system or potable water supply has a high probability of failing.
5 The amount of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A.
6 § 2822(j)(4) or from the Fund established in subdivision (1) of this subsection,
7 or a combination of both, shall be deposited into this Fund at the beginning of
8 each fiscal year to ensure a minimum balance of available funds of
9 \$275,000.00 exists for each fiscal year.

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

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

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

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

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

16 * * *

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

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

19 * * *

1 § 4757. REVOLVING LOAN FUNDS; ADDITIONAL USES

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

5 (1) To make loans, to refund bonds or notes of a municipality issued
6 after March 7, 1985 for sewerage works, or after July 1, 1993 for water supply
7 systems for the purpose of financing the construction of any capital
8 improvements or management program described in section 4753 and certified
9 under section 4756 of this title.

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

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

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

19 (5) To pay the costs of the Bond Bank, VEDA, and the agency
20 associated with the administration of each fund; provided, however, that no
21 more than four percent of the aggregate of the highest fund balances in any

1 fiscal year shall be used for such purposes, and that a separate account be
2 established outside the Drinking Water State Revolving Fund for such
3 purposes. As used in this subsection, costs shall include fiscal, clerical,
4 administrative, and issuance expenditures directly attributable and allocated to
5 the maintenance implementation and administration of the loan funds created
6 under this chapter.

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

11 * * *

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

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

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

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

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

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

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

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

20 (B) the individual applying for the loan certifies to the Secretary of
21 Natural Resources that the proposed project has secured all State and federal

1 permits, licenses, and approvals necessary to construct and operate the project
2 to be financed by the loan;

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) Loans awarded under this section:

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

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

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

14 * * *

15 Sec. 6a. USE OF VERMONT ENVIRONMENTAL PROTECTION

16 AGENCY (EPA) POLLUTION CONTROL REVOLVING FUND

17 Notwithstanding the authority of the Secretary of Natural Resources under
18 24 V.S.A. § 4753 to transfer up to \$275,000.00 from the Vermont EPA
19 Pollution Control Revolving Fund to the Vermont Wastewater and Potable
20 Water Revolving Fund, the Secretary of Natural Resources shall not transfer

1 any funds from the EPA Pollution Control Revolving Fund to the Vermont
2 Wastewater and Potable Water Revolving Fund after July 1, 2024 until:

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

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

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

11 Sec. 6b. ANR REPORT ON REVOLVING LOAN FUNDS

12 On or before January 15, 2024, the Secretary of Natural Resources shall
13 submit to the House Committee on Corrections and Institutions and the Senate
14 Committee on Institutions a report summarizing the status of the Vermont
15 Environmental Protection Agency (EPA) Pollution Control Revolving Fund
16 and the Vermont Environmental Protection Agency (EPA) Drinking Water
17 State Revolving Fund. The report shall include an accounting of the Funds,
18 including the following information for each Fund as it existed at the end of
19 fiscal year 2023:

20 (1) the balance of funds in the Fund;

21 (2) the amount of funds loaned or obligated from the Fund;

1 (3) the amount of funds repaid to the Fund in fiscal year 2023; and

2 (4) the amount of funds due for repayment to the Fund.

3 * * * Riparian Protection * * *

4 Sec. 7. ANR REPORT ON RIPARIAN PROTECTION PROGRAM

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

14 * * * Clean Water Reporting * * *

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

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

19 (1) whether the phosphorus load from new development permitted under
20 this section by the Secretary in the Lake Champlain watershed in the previous

1 ~~calendar~~ State fiscal year is achieving at least a 70 percent average phosphorus
2 load reduction;

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

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

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

11 (6) Beginning on January ~~2023~~ 2024, a summary of the administration
12 of the grant programs established under sections 925–928 of this title,
13 including whether these grant programs are adequately funding
14 implementation of the Clean Water Initiative and whether the funding limits
15 for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of
16 this title should be amended to improve State implementation of the Clean
17 Water Initiative.

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

19 Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT

20 TRADING

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

10 * * * ANR Enforcement Practices * * *

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

12 § 1527. PENALTY

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

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

16 § 6697. CIVIL PENALTIES; WARNING

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

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

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

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

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

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

7 § 2282. PENALTY

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

12 * * * Solid Waste Certification * * *

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

14 (a) Disqualifying criteria. Any nongovernmental entity or person applying
15 for a certification under section 6605, 6605a, or 6606 of this title, for interim
16 certification under section 6605b of this title, ~~or for a waste transportation~~
17 ~~permit under section 6607a of this title,~~ shall be denied certification or other
18 authorization if the Secretary finds:

19 * * *

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

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

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

7 * * * Potable Water Supply * * *

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

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

10 (i) that has been found to exceed the standard set by the Secretary
11 in rule for one or more of the following contaminants:

12 (I) total coliform;

13 (II) nitrates;

14 (III) nitrites;

15 (IV) arsenic; or

16 (V) uranium;

17 (ii) that the Secretary affirmatively determines as not potable, due
18 to the presence of a contaminated site, a leaking underground storage tank, or
19 other known sources of groundwater contamination or naturally occurring
20 contaminants, ~~and that information has been posted on the Agency of Natural~~
21 ~~Resources’ website;~~ or

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

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

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

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

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

19 * * * Petroleum Cleanup Fund Assistance Program * * *

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

21 § 1941. PETROLEUM CLEANUP FUND

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

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

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

(i) after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of double-wall tank systems ~~used for commercial~~

1 ~~purposes or single-wall tank systems that were either taken out of service or~~
2 ~~abandoned prior to July 1, 1985; and~~

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

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

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

14 (B) An underground motor fuel tank used for farming or residential
15 purposes either after the first \$250.00 of the cleanup costs have been borne by
16 the owners or operators of tanks with a capacity equal to or less than 1,100
17 gallons ~~and used for farming or residential purposes,~~ or after the first \$1,000.00
18 of the cleanup costs have been borne by the owners or operators of tanks with
19 capacities over 1,100 gallons. Disbursements on any site shall not exceed
20 ~~\$990,000.00~~ \$1,000,000.00 and shall be made from the Motor Fuel Account.

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

10 (D) An aboveground storage tank site after the first \$1,000.00 of the
11 cleanup costs have been borne by the owners or operators of tanks used for
12 commercial purposes, or after the first \$250.00 of the cleanup costs have been
13 borne by the owners or operators of residential and farm tanks. Disbursements
14 under this subdivision (b)(1)(D) on any individual site shall not exceed
15 ~~\$25,000.00~~ \$50,000.00. These disbursements shall be made from the Motor
16 Fuel Account or Heating Fuel Account, depending upon the use or contents of
17 the tank.

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

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

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

7 (2) Costs incurred in compensating third parties for bodily injury and
8 property damage, as approved by the Secretary in consultation with the
9 Commissioner of Financial Regulation, caused by release of petroleum from an
10 underground category one storage tank into the environment from a site, up to
11 \$1 million, but shall not include payment of any punitive damages.

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

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

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

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

2 (C) [Repealed.]

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

5 (5) [Repealed.]

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

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

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

18 [Repealed.]

19 (c) The Secretary may authorize disbursements from the Fund for costs of
20 initiating spill control procedures, removal actions, and remedial actions to
21 clean up spills of oil and other petroleum products where the responsible party

1 is unknown, cannot be contacted, is unwilling to take action, or does not take
2 timely action that the Secretary considers necessary. The Secretary may seek
3 reimbursement of the costs, including any costs determined to be covered by
4 insurance.

5 (d) The Secretary may use up to one-half the amount deposited to the
6 Motor Fuel Account of the Fund from the licensing fees assessed under section
7 1942 of this title to capitalize the Underground Motor Fuel Storage Tank Loan
8 Assistance Program established by section 1944 of this title and the cost of
9 administering the Program. If the Secretary determines that a balance will
10 remain after all qualifying loan applications have been satisfied, the unneeded
11 balance may be used for cleanup. The Secretary may use the amount in the
12 Heating Fuel Account of the Fund for purposes of funding measures related to
13 heating oil and kerosene.

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

16 ~~(e)~~(f) The Secretary shall establish the Petroleum Cleanup Fund Advisory
17 Committee that shall meet not less than annually to review receipts and
18 disbursements from the Fund, to evaluate the effectiveness of the Fund in
19 meeting its purposes and the reasonableness of the cost of cleanup and to
20 recommend alterations and statutory amendments deemed appropriate. The
21 Advisory Committee shall submit an annual report of its findings to the

1 General Assembly on January 15 of each year. In its annual report, the
2 Advisory Committee shall review the financial stability of the Fund, evaluate
3 the implementation of assistance related to underground farm or residential
4 heating fuel storage tanks and aboveground storage tanks, and the need for
5 continuing assistance, and shall include recommendations for sustainable
6 funding sources to finance the provision of that assistance. The provisions of 2
7 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to
8 be made under this subsection. The membership of the Committee shall
9 include the following or their designated representative:

- 10 (1) the Secretary of Natural Resources, who shall be chair;
- 11 (2) the Commissioner of Environmental Conservation;
- 12 (3) the Commissioner of Financial Regulation;
- 13 (4) a licensed gasoline distributor;
- 14 (5) a retail gasoline dealer;
- 15 (6) a representative of a statewide refining-marketing petroleum
16 association;
- 17 (7) one member of the House to be appointed by the Speaker of the
18 House;
- 19 (8) one member of the Senate to be appointed by the Committee on
20 Committees;
- 21 (9) a licensed heating fuel dealer;

1 (10) a representative of a statewide heating fuel dealers' association; and

2 (11) a licensed real estate broker.

3 ~~(f)~~(g) The Secretary may seek reimbursement to the Fund of cleanup
4 expenditures only when the owner of the tank is in significant violation of ~~his~~
5 ~~or her~~ the owner's permit or rules, or when a required fee has not been paid for
6 the tank from which the release occurred or, to the extent covered, when there
7 is insurance coverage. When the Secretary has paid the first \$10,000.00 of
8 costs under subdivision (b)(4)(D) of this section, the Secretary may seek
9 reimbursement of those costs.

10 ~~(g)~~(h) The owner of a farm or residential heating fuel storage tank used for
11 on-premises heating or an underground or aboveground heating fuel storage
12 tank used for on-premises heating by a mobile home park resident, as defined
13 in section 6201 of this title, who desires assistance to close, replace, or upgrade
14 the tank or replace their heating fuel system with advanced wood heat or a heat
15 pump may apply to the Secretary for such assistance. The financial assistance
16 may be in the form of grants of up to: ~~\$2,000.00~~ \$3,000.00 or the costs of
17 closure, replacement, or upgrade, whichever is less, for an aboveground
18 storage tank located inside a structure; up to ~~\$3,000.00~~ \$4,000.00 or the costs
19 of closure, replacement, or upgrade, whichever is less, for an aboveground
20 storage tank located outside a structure; ~~and up to \$4,000.00~~ \$5,000.00 or the
21 costs of closure, replacement, or upgrade, whichever is less, for an

1 underground storage tank; and up to \$4,000.00 or the actual cost of replacing
2 their heating system with advanced wood heat or a heat pump, whichever
3 amount is less. As used in this subsection, “structure” means any assembly of
4 materials that is intended for occupancy or use by a person and that has at least
5 three walls and a roof. Grants shall be made only to the current property
6 owners, except at mobile home parks where a grant may be awarded to a
7 mobile home park resident. To be eligible to receive the grant, an
8 environmental site assessment must be conducted by a qualified consultant
9 during the tank closure, replacement, or upgrade if the tank is an underground
10 heating fuel storage tank. In addition, if the closed tank is to be replaced with
11 an underground heating fuel storage tank, the replacement tank and piping
12 shall provide a level of environmental protection at least equivalent to that
13 provided by a double wall tank and secondarily contained piping. Grants shall
14 be awarded on a priority basis to projects that will avoid the greatest
15 environmental or health risks. The Secretary shall also give priority to
16 applicants who are replacing their underground heating fuel tanks with
17 aboveground heating fuel storage tanks that will be installed in accordance
18 with the Secretary’s recommended standards. The Secretary shall also give
19 priority to ~~lower income~~ lower-income applicants. To be eligible to receive the
20 grant, the owner must provide the previous year’s financial information and, if
21 the replacement tank is an aboveground tank, must ensure that any work to

1 replace or upgrade a tank shall be done in accordance with industry standards
2 (National Fire Protection Association, or NFPA, Code 31), as it existed on July
3 1, 2004, until another date or edition is specified by rule of the Secretary. The
4 Secretary shall authorize only up to ~~\$400,000.00~~ \$500,000.00 in assistance for
5 underground and aboveground heating fuel tanks in any one fiscal year from
6 the Heating Fuel Account for this purpose. The application must be
7 accompanied by the following information:

8 (1) proof of ownership, including information disclosing all owners of
9 record of the property, except in the case where the applicant is a mobile home
10 park resident;

11 (2) for farm or residential aboveground heating fuel storage tank
12 owners, a copy of the federal income tax return for the previous year;

13 (3) identification of the contractor performing any heating fuel storage
14 tank closure, replacement, ~~or upgrade,~~ or system replacement;

15 (4) an estimated cost of tank closure, replacement, ~~or upgrade,~~ or system
16 replacement;

17 (5) the amount and type of assistance requested;

18 (6) a schedule for the work;

19 (7) description of surrounding area, including location of water supply
20 wells, surface waters, and other sensitive receptors; and

21 (8) such other information and assurances as the Secretary may require.

1 * * * Effective Date * * *

2 Sec. 19. EFFECTIVE DATE

3 This act shall take effect on July 1, 2023.