

1 H.146

2 Introduced by Representative Sheldon of Middlebury

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; agriculture; water quality; permitting;
6 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 in the State

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

14 * * * Agency of Natural Resources; Agricultural Water Quality Program * * *

15 Sec. 1. 10 V.S.A. chapter 47, subchapter 3A is added to read:

16 Subchapter 3A. Agricultural Water Quality

17 § 1351. PURPOSE

18 It is the purpose of this subchapter to ensure that agricultural wastes,
19 including manure, fertilizer, nutrients, pathogens, sediments, and pesticides,
20 do not enter the groundwater or waters of the State and that the regulation of

1 agricultural water quality meets the requirements of the federal Clean
2 Water Act.

3 § 1352. DEFINITIONS

4 As used in this subchapter:

5 (1) “Agency” means the Agency of Natural Resources.

6 (2) “Agricultural waste” means material originating or emanating from a
7 farm that is determined by the Secretary to be harmful to the groundwater or
8 waters of the State, including sediments; minerals, including heavy metals;
9 plant nutrients; pesticides; organic wastes, including livestock waste, animal
10 mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and
11 viruses; thermal pollution; silage runoff; untreated milkhouse waste; process
12 wastewater; and any other farm waste as the term “waste” is defined in
13 subdivision 1251(12) of this title.

14 (3) “Animal feeding operation” or “AFO” means a lot or facility where
15 livestock or domestic fowl have been, are, or will be stabled or confined and
16 fed or maintained for a total of 45 days or more in any 12-month period and
17 crops, vegetation, or forage growth are not sustained in the normal growing
18 season over any portion of the lot or facility. Two or more individual farms
19 qualifying as an AFO that are under common ownership and that adjoin each
20 other or use a common area or system for the disposal of waste shall be
21 considered to be a single AFO if the combined number of livestock or

1 domestic fowl on the combined farm qualifies the combined farm as a large
2 CAFO as defined in subdivision (11) of this section or as a medium CAFO as
3 defined in subdivision (14) of this section.

4 (4) “Concentrated animal feeding operation” or “CAFO” means a large
5 CAFO, a medium CAFO, or a small CAFO.

6 (5) “CAFO permit” means a permit issued by the Secretary to a CAFO
7 under section 1356 of this subchapter.

8 (6) “Discharge” means the placing, depositing, or emission of any
9 wastes, directly or indirectly, into an injection well, into the waters of the State,
10 or into a significant wetland, including from a land application area under the
11 control of a CAFO or AFO, unless it is an agricultural stormwater discharge.
12 A discharge shall not be considered an agricultural stormwater discharge
13 unless it meets all of the following requirements:

14 (A) Precipitation is the primary cause of the discharge. A discharge
15 is not an agricultural stormwater discharge if its primary cause is farm
16 management, even if precipitation contributes to the discharge.

17 (B) The waste discharged is manure, litter, or process wastewater.

18 (C) The CAFO or AFO land applied the discharged manure, litter, or
19 process wastewater in accordance with a nutrient management plan that meets
20 the requirements of section 1364 of this subchapter.

1 (7) “Domestic fowl” means laying-hens, broilers, ducks, turkeys, or
2 other animal types designated by the Secretary by rule.

3 (8) “Farm” means a parcel or parcels of land owned, leased, or managed
4 by a person that is devoted primarily to farming and that meets the threshold
5 criteria established under the Required Agricultural Practices, provided that a
6 lessee controls the leased lands to the extent they would be considered as part
7 of the lessee’s own farm. Indicators of control may include whether the lessee
8 makes day-to-day decisions concerning cultivation or other farming-related
9 actions on the land.

10 (9) “Farming” has the same meaning as used in subdivision 6001(22) of
11 this title.

12 (10) “Land Application Area” means the area under the control of an
13 AFO or CAFO owner or operator, whether it is owned, rented, or leased, to
14 which agricultural waste may be applied.

15 (11) “Large concentrated animal feeding operation” or “Large CAFO”
16 means an AFO that houses 700 or more mature dairy animals, 1,000 or more
17 cattle or cow or calf pairs, 1,000 or more veal calves, 2,500 or more swine
18 weighing over 55 pounds, 10,000 or more swine weighing 55 pounds or less,
19 500 or more horses, 10,000 or more sheep or lambs, 55,000 or more turkeys,
20 30,000 or more laying hens or broilers with a liquid manure handling system,
21 82,000 or more laying hens without a liquid manure handling system, 125,000

1 or more chickens other than laying hens without a liquid manure handling
2 system, 5,000 or more ducks with a liquid manure handling system, 30,000 or
3 more ducks without a liquid manure handling system, or other livestock types,
4 combinations, or numbers as designated by the Secretary by rule.

5 (12) “Livestock” means cattle, cow or calf pairs, youngstock, heifers,
6 bulls, American bison, swine, sheep, goats, horses, cervids, camelids, ratites,
7 rabbits, pheasants, chukar partridge, coturnix quail, domestic fowl, or other
8 animal types designated by the Secretary by rule.

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

11 (14) “Medium concentrated animal feeding operation” or “medium
12 CAFO” means an AFO that houses 200 to 699 mature dairy animals, 300 to
13 999 cattle or cow or calf pairs, 300 to 999 veal calves, 750 to 2,499 swine
14 weighing over 55 pounds, 3,000 to 9,999 swine weighing 55 pounds or less,
15 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys,
16 9,000 to 29,999 laying hens or broilers with a liquid manure handling system,
17 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500
18 to 124,999 chickens other than laying hens without a liquid manure handling
19 system, 1,500 to 4,999 ducks with a liquid manure handling system, 10,000 to
20 29,999 ducks without a liquid manure handling system, or other livestock
21 types, combinations, or numbers as designated by the Secretary by rule.

1 (15) “Non-sewage waste” means any waste other than sewage that may
2 contain organisms pathogenic to human beings but does not mean stormwater
3 runoff.

4 (16) “NPDES Program” or “NPDES” means the National Pollutant
5 Discharge Elimination System Program of the federal Clean Water Act.

6 (17) “Process wastewater” means water directly or indirectly used in the
7 operation of an AFO or CAFO for any or all of the following: spillage or
8 overflow from livestock or domestic fowl watering systems; washing,
9 cleaning, or flushing pens, barns, manure pits, or other AFO or CAFO
10 facilities; direct contact swimming, washing, or spray cooling of animals; or
11 dust control. Process wastewater also includes any water that comes into
12 contact with any raw materials, products, or byproducts including manure,
13 litter, feed, milk, eggs, or bedding.

14 (18) “Production area” means that part of an AFO or CAFO that
15 includes the animal confinement area, the manure storage area, the raw
16 materials storage area, and the waste containment areas.

17 (19) “Required Agricultural Practices” or “RAPs” mean the
18 management standards and practices administered, amended, or adopted by the
19 Secretary under section 1360 of this subchapter.

20 (20) “Secretary” means the Secretary of Natural Resources.

1 (21) “Sewage” means waste containing human fecal coliform and other
2 potential pathogenic organisms from sanitary waste and used water from any
3 building, including carriage water and shower and wash water. “Sewage” does
4 not mean stormwater runoff as that term is defined in section 1264 of this
5 chapter.

6 (22) “Significant wetland” has the same meaning as in section 902 of
7 this title.

8 (23) “Small animal feeding operation” means an AFO that is not a large
9 CAFO or a medium CAFO.

10 (24) “Small concentrated animal feeding operation” or “small CAFO”
11 means a small AFO designated as a small CAFO by the Secretary pursuant to
12 section 1357 of this subchapter.

13 (25) “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 eight cow or calf pairs, 299 veal calves, 749 swine weighing over 55 pounds,
17 2,999 swine weighing 55 pounds or less, 149 horses, 2,999 sheep or lambs,
18 16,499 turkeys, 8,999 laying hens or broilers with a liquid manure handling
19 system, 24,999 laying hens without a liquid manure handling system, 37,499
20 chickens other than laying hens without a liquid manure handling system,
21 1,499 ducks with a liquid manure handling system, 9,999 ducks without a

1 liquid manure handling system, or other livestock types, combinations, or
2 numbers as designated by the Secretary by rule;

3 (C) that are not part of a CAFO; and

4 (D)(i) that house at least the number of mature animals designated by
5 rule under the RAPs; or

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

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

12 § 1353. POWERS OF THE SECRETARY

13 The Secretary, in furtherance of the purposes of this subchapter, may:

14 (1) adopt, revise, or amend rules as necessary to carry out the provisions
15 of this subchapter;

16 (2) appoint assistants, subject to applicable laws, to perform or assist in
17 the performance of any duties or functions of the Secretary under this
18 subchapter;

19 (3) enter any lands, public or private, and review and copy any land
20 management records as may be necessary to carry out the provisions of this
21 subchapter;

1 (4) solicit and receive federal or private funds; and

2 (5) cooperate fully with the federal government or other agencies in the
3 operation of any joint federal-state programs concerning the regulation of
4 agricultural pollution.

5 § 1354. AGRICULTURAL WATER QUALITY SPECIAL FUND

6 (a) There is created the Agricultural Water Quality Special Fund to be
7 administered by the Secretary. Notwithstanding any other provision of law,
8 fees collected under this subchapter, fees collected under 3 V.S.A.
9 § 2822(j)(2)(A)(v), and fees collected under 3 V.S.A. § 2822(j)(2)(B)(vi) shall
10 be deposited in the Fund.

11 (b) The Secretary shall use monies deposited in the Fund for the
12 Secretary's implementation and administration of agricultural water quality
13 programs or requirements under this subchapter, including to pay salaries of
14 Agency staff necessary to administer and implement the programs and
15 requirements of this subchapter.

16 (c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned
17 by the Fund shall be retained in the Fund from year to year.

18 § 1355. INSPECTION

19 (a) The Secretary may inspect any farm at any time to carry out the
20 provisions of this subchapter.

21 (b) After July 1, 2027, the Secretary shall inspect:

1 (1) each large CAFO not less frequently than once per year.

2 (2) each medium CAFO and each small CAFO not less frequently than
3 once every three years;

4 (3) each small AFO not less frequently than once every five years;

5 (4) each small farm required to certify under section 1359 of this
6 subchapter and that is not a small AFO not less frequently than once every
7 seven years; and

8 (5) any farm that discharges to waters of the State, that contaminates
9 groundwater or drinking water, that violates the RAPs, that violates a best
10 management practice required by the Secretary under this subchapter, or that
11 violates a permit issued under this chapter within six months after the
12 discharge, contamination, or violation.

13 § 1356. CAFO PERMIT REQUIRED

14 (a) After January 1, 2029, no person shall operate a large CAFO, a medium
15 CAFO, or a small CAFO without a CAFO permit issued by the Secretary
16 under section 1263 of this chapter.

17 (b) The Secretary may require the owner or operator of a large CAFO,
18 medium CAFO, or small CAFO to apply for a CAFO permit at any time.

19 (c) The Secretary may issue individual CAFO permits or general CAFO
20 permits for medium CAFOs or small CAFOs. The Secretary may only issue
21 individual CAFO permits for large CAFOs.

1 (d) The Secretary may require the owner or operator of a medium CAFO or
2 a small CAFO covered by a general CAFO permit to apply for an individual
3 CAFO permit.

4 (e) CAFO permits for large CAFOs, medium CAFOs, and small CAFOs
5 shall satisfy the requirements of subsection 1263(d) of this title. In addition,
6 such CAFO permits shall:

7 (1) satisfy all requirements applicable to NPDES permits for CAFOs
8 under federal regulation, including requirements under 40 C.F.R. Parts 122 and
9 412 (2024);

10 (2) incorporate the following as terms and conditions:

11 (A) compliance with the RAPs;

12 (B) compliance with best management practices required by the
13 Secretary under section 1361 of this subchapter;

14 (C) the terms of a nutrient management plan that meets the minimum
15 requirements of section 1364 of this subchapter; and

16 (D) other terms or conditions that the Secretary considers necessary
17 to prevent agricultural waste from entering groundwater or waters of the State.

18 (f) CAFO permits for large CAFOs, medium CAFOs, and small CAFOs
19 and related application materials shall be public records. The Secretary shall
20 make CAFO permits for large CAFOs, medium CAFOs, and small CAFOs
21 available on the Agency's website. The Secretary shall plot the location of any

1 large CAFO, medium CAFO, or small CAFO permitted under this section on
2 the Vermont Natural Resources Atlas or similar platform.

3 § 1357. SMALL CONCENTRATED ANIMAL FEEDING OPERATIONS;

4 DESIGNATION

5 (a) The Secretary shall designate a small AFO as a small CAFO upon
6 determining that the small AFO is a significant contributor of pollutants to
7 waters of the State.

8 (b) The Secretary shall not find that a small AFO is a significant
9 contributor of pollutants to waters of the State unless:

10 (1) the Secretary has conducted an on-site inspection of the small AFO;
11 and

12 (2)(A) the small AFO discharges into waters of the State through a
13 manmade ditch, drainage system, flushing system, or other manmade device;

14 or

15 (B) pollutants are discharged directly into waters of the State that
16 originate outside of the facility and pass over, across, or through the facility or
17 otherwise come into direct contact with the animals confined by the operation.

18 (c) The Secretary may determine that a small AFO is a significant
19 contributor of pollutants to waters of the State after considering the following
20 factors:

- 1 (1) the size of the small AFO and the amount of agricultural waste
2 reaching waters of the State, groundwater, or drinking water;
- 3 (2) the location of the small AFO relative to waters of the State;
- 4 (3) the means of conveyance of agricultural waste to groundwater or
5 waters of the State;
- 6 (4) the slope, vegetation, rainfall, and other factors affecting the
7 likelihood or frequency of discharge of agricultural waste into waters of the
8 State or of contamination of groundwater or drinking water;
- 9 (5) the small CAFO's record of compliance with requirements under
10 this subchapter; and
- 11 (6) other relevant factors as determined by the Secretary.

12 § 1358. CONCENTRATED ANIMAL FEEDING OPERATION; ANIMAL
13 FEEDING OPERATION; RULES

- 14 (a) On July 1, 2027, the Secretary is transferred authority to administer and
15 enforce the water quality requirements of the Large Farm Operation Rules
16 (Large Farm Rules) and the Medium and Small Farm Operation Rules for
17 Issuance of General and Individual Permits (Medium Farm Rules) of the
18 Agency of Agriculture, Food and Markets, as those rules existed on July 1,
19 2027.

1 (b) The Secretary may amend, repeal, or replace the Large Farm Rules and
2 Medium Farm Rules at any time in accordance with the requirements of
3 3 V.S.A. chapter 25.

4 (c) Not later than January 1, 2029, the Secretary shall replace the Large
5 Farm Rules and Medium Farm Rules pursuant to subsection (d) of this section.

6 (d) The Secretary, in consultation with the Secretary of Agriculture, Food
7 and Markets, shall adopt rules pursuant to 3 V.S.A. chapter 25 to prevent
8 agricultural waste from CAFOs and AFOs from crossing property boundaries,
9 from entering drinking water, and from entering the groundwater and waters of
10 the State. Such rules may address the following:

11 (1) program administration, enforcement, and appeals;

12 (2) management of agricultural waste;

13 (3) setbacks, standards, and siting criteria for expansion or new
14 construction;

15 (4) prevention of trespass and public nuisance; and

16 (5) other matters the Secretary considers necessary.

17 (e) The Secretary shall establish a process under which the Agency shall
18 receive, investigate, and respond to a complaint that a CAFO or an AFO has
19 allowed agricultural waste to cross property boundaries, to enter drinking
20 water, or to enter the groundwater or waters of the State.

1 § 1359. SMALL FARM CERTIFICATION

2 (a) A person who owns or operates a small farm shall submit to the
3 Secretary a form certifying whether or not the small farm complies with the
4 RAPs on or before January 1, 2027 and every three years thereafter.

5 (b) The Secretary may require any person who owns or operates a farm to
6 obtain a permit or submit a small farm certification under this chapter if the
7 person is not required to obtain a permit or submit a certification under this
8 chapter and the Secretary determines that the farm poses a threat of discharge
9 to waters of the State or a threat of contamination to groundwater or drinking
10 water.

11 (c) The Secretary may waive a permit or small farm certification required
12 under subsection (b) of this section upon a determination that the farm no
13 longer poses a threat of discharge to waters of the State or a threat of
14 contamination to groundwater or drinking water.

15 (d) A person who owns or leases a small farm shall notify the Secretary of
16 a change of ownership or change of lessee of a small farm within 30 days
17 following the change. The notification shall include the certification of small
18 farm compliance required under subsection (a) of this section.

19 (e)(1) During an inspection of a small farm, the Secretary shall identify
20 areas where the farm could benefit from capital, structural, or technical

1 assistance in order to improve or come into compliance with RAPs and any
2 applicable permit, certification, or requirement under this chapter.

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

9 § 1360. REQUIRED AGRICULTURAL PRACTICES RULE

10 (a) On July 1, 2027, the Secretary is transferred authority to administer and
11 enforce the Required Agricultural Practices Rule for the Agricultural Nonpoint
12 Source Pollution Control Program of the Agency of Agriculture, Food and
13 Markets, as those rules existed on July 1, 2027.

14 (b) The Secretary may amend, repeal, or replace the rules transferred under
15 subsection (a) of this section at any time in accordance with the requirements
16 of 3 V.S.A. chapter 25.

17 (c) Not later than January 1, 2029, the Secretary shall replace the rules
18 transferred under subsection (a) of this section pursuant to subsection (d) of
19 this section.

20 (d) The Secretary, in consultation with the Secretary of Agriculture, Food
21 and Markets, shall adopt RAPs by rule pursuant to 3 V.S.A. chapter 25. The

1 RAPs shall be management standards to be followed by all persons engaged in
2 farming. These management standards shall address agricultural activities and
3 conditions that have the potential to cause agricultural waste to enter the
4 groundwater, drinking water, and waters of the State. The RAPs shall be
5 designed to protect water quality and shall be practical, as determined by the
6 Secretary. In addition, the RAPs shall meet the following conditions:

7 (1) The RAPs shall ensure that practices on all farms eliminate adverse
8 impacts to groundwater, drinking water, and waters of the State.

9 (2) The RAPs shall require any CAFO, AFO, or small farm to
10 implement a field-by-field nutrient management plan that meets the
11 requirements of section 1364 of this subchapter.

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

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

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

19 (B) Except as authorized under subdivision (C) of this subdivision
20 (3), the RAPs shall prohibit manure stacking or piling sites, fertilizer storage,

1 or other nutrient storage located within 200 feet of a private well or within 200
2 feet of a water of the State.

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

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

9 (ii) siting of a waste storage facility within 200 feet of a surface
10 water or private well if the site is the best available site on the farm for the
11 purposes of protecting groundwater quality, drinking water quality, or surface
12 water quality and the waste storage facility is designed by a licensed engineer
13 to meet the requirements of section 1368 of this subchapter.

14 (4) The RAPs shall require the construction and management of
15 barnyards, waste management systems, animal holding areas, and production
16 areas in a manner to prevent runoff of waste to a surface water, the runoff of
17 waste across property boundaries, or the contamination of groundwater or
18 drinking water.

19 (5) The RAPs shall require cropland on a farm to be cultivated in a
20 manner that results in an average soil loss of less than or equal to the soil loss
21 tolerance for the prevalent soil, known as 1T, as calculated through application

1 of the Revised Universal Soil Loss Equation or through the application of
2 similarly accepted models.

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

11 (B) The RAPs shall establish standards for site-specific vegetative
12 buffers that adequately address water quality needs based on consideration of
13 soil type, slope, crop type, proximity to water, and other relevant factors.

14 (7) The RAPs shall regulate, in a manner consistent with the Agency's
15 flood hazard area and river corridor rules, the construction or siting of a farm
16 structure or the storage of manure, fertilizer, or pesticides within a river
17 corridor designated by the Secretary.

18 (8) The RAPs shall establish standards for the exclusion of livestock
19 from the waters of the State to prevent erosion and adverse water quality
20 impacts.

1 (9) The RAPs shall establish standards for soil conservation practices
2 such as cover cropping.

3 (10) The RAPs shall allow for alternative techniques or practices,
4 approved by the Secretary, for compliance by an owner or operator of a farm
5 when the owner or operator cannot comply with the requirements of the RAPs
6 due to site-specific conditions. Approved alternative techniques or practices
7 shall meet State requirements to reduce adverse impacts to water quality.

8 (11) The RAPs shall include requirements for reducing the discharge of
9 agricultural waste to waters of the State from subsurface tile drainage on farms,
10 including requirements related to the installation of subsurface tile drainage on
11 farms. The Secretary may require an existing subsurface tile drain to comply
12 with the requirements of the RAPs for subsurface tile drainage upon a
13 determination that compliance is necessary to reduce adverse impacts to water
14 quality from the subsurface tile drainage. The RAPs shall require the owner or
15 operator of an AFO or CAFO to report the installation of new subsurface tile
16 drainage, including plans and maps, to the Secretary.

17 (12) The RAPs shall include requirements for activities occurring in
18 areas that are excluded from regulation by the Agency of Natural Resources or
19 are allowed uses under section 902 of this title because the area is used to grow
20 food or crops in connection with farming activities.

1 (13) The RAPs shall include a process under which the Agency shall
2 receive, investigate, and respond to a complaint that a farm has contaminated
3 the drinking water or groundwater of a property owner.

4 (14) The RAPs shall authorize a farmer to petition the Secretary to
5 reduce the size of a perennial buffer or change the perennial buffer type based
6 on site-specific conditions.

7 (e) Compliance with the RAPS shall not entitle a farm to a presumption
8 that the farm does not discharge.

9 § 1361. BEST MANAGEMENT PRACTICES

10 (a) The Secretary of Natural Resources may require any person engaged in
11 farming to implement a best management practice to prevent agricultural waste
12 from entering groundwater or waters of the State.

13 (b) Where the Secretary determines, after inspection of a farm, that a
14 person engaged in farming is complying with requirements under this
15 subchapter, including the RAPs, but there still exists the potential for
16 agricultural waste to enter groundwater or waters of the State, the Secretary
17 shall require the person to implement best management practices.

18 (c) When requiring a best management practice, the Secretary shall inform
19 a farmer of financial resources available from State or federal sources, private
20 foundations, public charities, or other sources to assist the person in

1 implementing best management practices and complying with the requirements
2 of this subchapter.

3 § 1362. SEASONAL APPLICATION OF MANURE

4 (a) A person shall not apply manure to land in the State between December
5 15 and April 1 of any calendar year unless authorized under this section.

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

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

20 (1) prohibit application of manure:

1 (A) in areas with established channels of concentrated stormwater
2 runoff to surface waters, including ditches and ravines;

3 (B) in nonharvested permanent vegetative buffers;

4 (C) in a nonfarmed wetland, as that term is defined in section 902 of
5 this title;

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

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

9 (F) to saturated soils;

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

12 (3) require manure to be applied according to a nutrient management
13 plan that complies with section 1364 of this subchapter; and

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

16 § 1363. AGRICULTURAL WATER QUALITY TRAINING

17 (a) The owners or operators of a CAFO, AFO, or small farm shall obtain
18 water quality training as approved by the Secretary. Training shall provide
19 information regarding:

20 (1) the prevention of discharges to waters of the State;

21 (2) the prevention of contamination of groundwater and drinking water;

1 (3) the mitigation and management of stormwater runoff from farms;

2 (4) statutory and regulatory requirements for the operation of a CAFO,
3 AFO, or small farm;

4 (5) financial resources available to assist in compliance with statutory or
5 regulatory compliance;

6 (6) weather and soil conditions that increase the risk that agricultural
7 waste will enter groundwater, drinking water, or waters of the State;

8 (7) the management of subsurface tile drainage to prevent the discharge
9 of agricultural waste to waters of the State; and

10 (8) standards for nutrient management, including nutrient management
11 planning.

12 (b) The owner or operator of a CAFO, AFO, or small farm shall obtain
13 eight hours of approved training at least once every five years.

14 (c) The Secretary shall include the training required by this section as a
15 condition of any permit or certification required under this subchapter.

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

1 § 1364. NUTRIENT MANAGEMENT PLAN

2 (a) Nutrient management plans required under this subchapter shall, at a
3 minimum, be consistent with the requirements of Natural Resources
4 Conservation Service of the U.S. Department of Agriculture's Nutrient
5 Management Practice Code 590 or other equivalent standards approved by the
6 Secretary.

7 (b) In addition to satisfying the requirements of subsection (a) of this
8 section, nutrient management plans for CAFOs required under this subchapter
9 shall, at a minimum:

10 (1) ensure adequate storage of manure, litter, and process wastewater,
11 including procedures to ensure proper operation and maintenance of the
12 storage facilities;

13 (2) ensure proper management of mortalities to ensure that they are not
14 disposed of in a liquid manure, storm water, or process wastewater storage or
15 treatment system that is not specifically designed to treat animal mortalities;

16 (3) ensure that clean water is diverted, as appropriate, from the
17 production area;

18 (4) prevent direct contact of confined animals with waters of the State;

19 (5) ensure that chemicals, pesticides, and other contaminants handled
20 on-site are not disposed of in any manure, litter, process wastewater, or storm

1 water storage or treatment system unless specifically designed to treat such
2 chemicals and other contaminants;

3 (6) identify appropriate site-specific conservation practices to be
4 implemented, including as appropriate buffers or equivalent practices, to
5 control runoff of pollutants to waters of the State;

6 (7) identify appropriate site-specific practices to be implemented to
7 control discharges of pollutants from subsurface tile drainage to waters of the
8 State;

9 (8) identify protocols for appropriate testing of manure, litter, process
10 wastewater, and soil;

11 (9) establish protocols to land apply manure, litter or process wastewater
12 in accordance with site specific nutrient management practices that ensure
13 appropriate agricultural utilization of the nutrients in the manure, litter or
14 process wastewater; and

15 (10) identify specific records that will be maintained to document the
16 implementation and management of the minimum elements described in
17 subdivisions (1) through (9) of this subsection.

18 (c) The Secretary, in consultation with the Secretary of Agriculture, Food
19 and Markets, may adopt by rule additional nutrient management planning
20 requirements in order to protect groundwater and waters of the State.

1 § 1365. CERTIFICATION OF CUSTOM APPLICATORS

2 (a) Custom applicators of manure or other agricultural waste shall be
3 certified by the Secretary in order to operate within the State and shall comply
4 with all applicable statutory and regulatory requirements under this subchapter.

5 (b) Custom applicators shall demonstrate knowledge of the RAPs, rules
6 and permit requirements for CAFOs, rules for AFOs, and rules and
7 requirements related to nutrient management plan implementation.

8 (c) Custom applicators shall demonstrate competency in methods and
9 techniques used to minimize runoff from application sites, identification of
10 weather or soil conditions that may increase risk of field runoff, record
11 keeping, and other information deemed pertinent by the Secretary.

12 (d) Certified custom applicators shall train all employees and seasonal
13 workers in methods or techniques to minimize runoff to surface water,
14 identification of weather or soil conditions that may increase the risk of runoff,
15 the RAPs, rules and permit requirements for CAFOs, rules for AFOs, rules and
16 requirements related to nutrient management plans and nutrient management
17 plan implementation, and standards and restrictions for the application of
18 manure or other agricultural wastes. Records of training shall be maintained in
19 a manner prescribed by the Secretary.

20 (e) Certification shall be valid for five years from the date of issuance and
21 shall be renewable annually on a form and in a manner prescribed by the

1 Secretary. Certified custom applicators shall complete eight hours of training
2 in each five-year period of certification. Completion of five-year training
3 requirements will serve as meeting the requirements for recertification.

4 (f) Certified custom applicators shall maintain records of the amount of
5 manure or agricultural waste applied by farm and field for a period of five
6 years and provide those records to the Agency upon reasonable request.

7 § 1366. CERTIFICATION OF NUTRIENT MANAGEMENT PLAN

8 TECHNICAL SERVICE PROVIDERS

9 (a) Nutrient management plan technical service providers shall be certified
10 by the Secretary in order to operate within the State.

11 (b) Nutrient management plan technical service providers shall demonstrate
12 knowledge and competence related to the preparation and implementation of
13 nutrient management plans, including the following:

14 (1) calculating manure and agricultural waste generation;

15 (2) taking soil and manure samples;

16 (3) identifying and creating maps of all natural resource features;

17 (4) use of erosion calculation tools;

18 (5) reconciling plans using records;

19 (6) use of nutrient index tools;

20 (7) accounting for subsurface tile drainage; and

21 (8) requirements of this chapter and the federal Clean Water Act.

1 (c) Certification shall be valid for five years from the date of issuance and
2 shall be renewable annually on a form and in a manner prescribed by the
3 Secretary. Certified nutrient management plan technical service providers
4 shall complete eight hours of training in each five-year period of certification.
5 Completion of five-year training requirements will serve as meeting the
6 requirements for recertification.

7 § 1367. BASIN MANAGEMENT; APPEALS TO THE ENVIRONMENTAL
8 DIVISION

9 (a) Any person with an interest in the agricultural component of the basin
10 planning process may petition the Secretary to require, and the Secretary, in
11 consultation with the Secretary of Agriculture, Food and Markets, may require
12 by rule, best management practices in the individual basin in order to achieve
13 compliance with the water quality goals in section 1250 of this chapter and any
14 duly adopted basin plan. The Secretary shall hold a public hearing within 60
15 days and shall issue a timely written decision that sets forth the facts and
16 reasons supporting the decision.

17 (b) Any person engaged in farming that has been required by the Secretary
18 to implement best management or any person who has petitioned the Secretary
19 under subsection (a) of this section may appeal the Secretary's decision to the
20 Environmental Division de novo.

1 § 1368. WASTE STORAGE FACILITY

2 (a) No person shall construct a new waste storage facility or expand or
3 modify a waste storage facility unless the facility meets the standard
4 established for such facilities by the Natural Resources Conservation Service
5 of the U.S. Department of Agriculture or an equivalent standard. If an
6 equivalent design standard is used, the design and construction shall be
7 certified by the Secretary or a licensed professional engineer operating within
8 the scope of the engineer's expertise.

9 (b) The Secretary may require the owner or operator of a waste storage
10 facility to modify the facility to meet the standard set forth in subsection (a) of
11 this section if the facility poses a threat to human health or the environment. If
12 the Secretary determines that a facility that meets the standard set forth in
13 subsection (a) of this section poses a threat to human health or the
14 environment, the Secretary may require the owner or operator of the facility to
15 implement additional management measures.

16 (c) If the Secretary suspects that a waste storage facility may be
17 contaminating groundwater, the Secretary shall pay the costs of any initial
18 groundwater monitoring to determine whether a facility poses a threat to
19 human health or the environment.

1 § 1369. MANAGEMENT OF NON-SEWAGE WASTE

2 (a) The Secretary may require a person transporting or arranging for the
3 transport of non-sewage waste to a farm for deposit in a manure pit or for use
4 as an input in a methane digester to obtain approval from the Secretary prior to
5 transporting the non-sewage waste to the farm. The Secretary may require a
6 person to report to the Secretary at a designated time one or more of the
7 following:

8 (1) the composition of the material transported to the farm, including the
9 source of the material; and

10 (2) the volume of the material transported to a farm.

11 (b) After receipt of a report required under subsection (a) of this section,
12 the Secretary may prohibit the import of non-sewage waste onto a farm upon a
13 determination that the import of the material would violate the nutrient
14 management plan for the farm or otherwise present a threat to water quality.

15 Sec. 2. 10 V.S.A. § 1259 is amended to read:

16 § 1259. PROHIBITIONS

17 (a) No person shall discharge any waste, substance, or material into waters
18 of the State, nor shall any person discharge any waste, substance, or material
19 into an injection well or discharge into a publicly owned treatment works any
20 waste that interferes with, passes through without treatment, or is otherwise
21 incompatible with those works or would have a substantial adverse effect on

1 those works or on water quality, without first obtaining a permit for that
2 discharge from the Secretary. This subsection shall not prohibit the proper
3 application of fertilizer to fields and crops, nor reduce or affect the authority or
4 policy declared in Joint House Resolution 7 of the 1971 Session of the General
5 Assembly.

6 * * *

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

18 * * *

19 (i) ~~The Secretary of Natural Resources, to the extent compatible with~~
20 ~~federal requirements, shall delegate to the Secretary of Agriculture, Food and~~
21 ~~Markets the State agricultural non-point source pollution control program~~

1 ~~planning, implementation, and regulation. A memorandum of understanding~~
2 ~~shall be adopted for this purpose, which shall address implementation grants,~~
3 ~~the distribution of federal program assistance, and the development of land use~~
4 ~~performance standards. Prior to executing the memorandum, the Secretary of~~
5 ~~State shall arrange for two formal publications of information relating to the~~
6 ~~proposed memorandum. The information shall consist of a summary of the~~
7 ~~proposal; the name, telephone number, and address of a person able to answer~~
8 ~~questions and receive comments on the proposal; and the deadline for~~
9 ~~receiving comments. Publication shall be subject to the provisions of 3 V.S.A.~~
10 ~~§ 839(d), (e), and (g), relating to the publication of administrative rules. The~~
11 ~~proposed memorandum of understanding shall be available for 30 days after~~
12 ~~the final date of publication for public review and comment prior to being~~
13 ~~executed by the Secretary of Natural Resources and the Secretary of~~
14 ~~Agriculture, Food and Markets. The Secretary of Natural Resources and the~~
15 ~~Secretary of Agriculture, Food and Markets annually shall review the~~
16 ~~memorandum of understanding to ensure compliance with the requirements of~~
17 ~~the Clean Water Act and the provisions of section 1258 of this title. If the~~
18 ~~memorandum is substantially revised, it first shall be noticed in the same~~
19 ~~manner that applies to the initial memorandum. Actions by the Secretary of~~
20 ~~Agriculture, Food and Markets under this section shall be consistent with the~~

1 ~~water quality standards and water pollution control requirements of chapter 47~~
2 ~~of this title and the federal Clean Water Act as amended. [Repealed.]~~

3 * * *

4 Sec. 3. 10 V.S.A. § 1263 is amended to read:

5 § 1263. DISCHARGE PERMITS

6 * * *

7 (g) ~~Notwithstanding any other provision of law, any person who owns or~~
8 ~~operates a concentrated animal feeding operation that requires a permit under~~
9 ~~the federal National Pollutant Discharge Elimination System permit~~
10 ~~regulations shall submit an application to the Secretary for a discharge permit~~
11 ~~and pay the required fees specified in 3 V.S.A. § 2822. On or before July 1,~~
12 ~~2007, the Secretary of Natural Resources shall adopt rules implementing the~~
13 ~~federal National Pollutant Discharge Elimination System permit regulations for~~
14 ~~discharges from concentrated animal feeding operations. Until such~~
15 ~~regulations are adopted, the substantive permitting standards and criteria used~~
16 ~~by the Secretary to evaluate applications and issue or deny discharge permits~~
17 ~~for concentrated animal feeding operations shall be those specified by federal~~
18 ~~regulations. The Secretary may issue an individual or general permit for these~~
19 ~~types of discharges in accordance with the procedural requirements of~~
20 ~~subsection (b) of this section and other State law. For the purposes of this~~

1 subsection, “concentrated animal feeding operation” means a farm that meets
2 the definition contained in the federal regulations. [Repealed.]

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

4 (d) Exemptions.

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

6 (A) Stormwater runoff from farms in compliance with ~~agricultural~~
7 ~~practices adopted by the Secretary of Agriculture, Food and Markets~~ the
8 agricultural water quality requirements of subchapter 3A of this chapter,
9 provided that this exemption shall not apply to construction stormwater
10 permits required by subdivision (c)(4) of this section.

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

13 (C) Stormwater runoff from accepted silvicultural practices, as
14 defined by the Commissioner of Forests, Parks and Recreation, including
15 practices that are in compliance with the Acceptable Management Practices for
16 Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the
17 Commissioner of Forests, Parks and Recreation.

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

19 * * *

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

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

8 * * * Agency of Agriculture, Food and Markets; Repeal of Regulatory
9 Authority over Agricultural Water Quality * * *

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

11 Subchapter 1. General Provisions

12 § 4801. PURPOSE; STATE POLICY

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

15 (1) All farms meet certain standards in the handling and disposal of
16 ~~animal~~ agricultural wastes, as provided by this chapter, and the cost of meeting
17 ~~these standards shall not be borne by farmers only but rather by all members of~~
18 ~~society, who are in fact the beneficiaries~~ 10 V.S.A. chapter 47, subchapter 3A.

19 Accordingly, State and federal funds shall be made available to farms,
20 regardless of size, ~~to defray the major cost of complying with the requirements~~
21 ~~of this chapter.~~ State and federal conservation programs to assist farmers

1 should be directed to those farms that need to improve their infrastructure to
2 prohibit direct discharges or bring existing water pollution control structures
3 into compliance with U.S. Department of Agriculture (U.S.D.A.) Natural
4 Resources Conservation Service standards. Additional resources should be
5 directed to education and technical assistance for farmers to improve the
6 management of agricultural wastes and protect water quality.

7 * * *

8 Subchapter 2. ~~Water Quality; Required Agricultural Practices and Best~~
9 ~~Management Practices~~ Education and Technical Assistance

10 § 4810. ~~AUTHORITY; COOPERATION; COORDINATION~~

11 ~~(a) Agricultural land use practices. In accordance with 10 V.S.A. §~~
12 ~~1259(i), the Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and~~
13 ~~shall implement and enforce agricultural land use practices in order to satisfy~~
14 ~~the requirements of 33 U.S.C. § 1329 that the State identify and implement~~
15 ~~best management practices to control nonpoint sources of agricultural waste to~~
16 ~~waters of the State. These agricultural land use practices shall be created in~~
17 ~~two categories, pursuant to subsections (b) and (c) of this section.~~

18 ~~(b) Required Agricultural Practices. Required Agricultural Practices~~
19 ~~(RAPs) shall be management standards to be followed by all persons engaged~~
20 ~~in farming in this State. These standards shall address activities that have a~~
21 ~~potential for causing agricultural pollutants to enter the groundwater and~~

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

1 ~~process under which the Agency shall receive, investigate, and respond to a~~
2 ~~complaint that a farm has contaminated the drinking water or groundwater of a~~
3 ~~property owner. A farmer may petition the Secretary to reduce the size of a~~
4 ~~perennial buffer or change the perennial buffer type based on site-specific~~
5 ~~conditions.~~

6 ~~(c) Best management practices. Best management practices (BMPs) are~~
7 ~~site-specific on-farm conservation practices implemented in order to address~~
8 ~~the potential for agricultural pollutants to enter the waters of the State. The~~
9 ~~Secretary may require any person engaged in farming to implement a BMP.~~
10 ~~When requiring implementation of a BMP, the Secretary shall inform a farmer~~
11 ~~of financial resources available from State or federal sources, private~~
12 ~~foundations, public charities, or other sources, including funding from the~~
13 ~~Clean Water Fund established under 10 V.S.A. § 1388, to assist the person in~~
14 ~~implementing BMPs and complying with the requirements of this chapter.~~
15 ~~BMPs shall be practical and cost effective to implement, as determined by the~~
16 ~~Secretary, and shall be designed to achieve compliance with the requirements~~
17 ~~of this chapter. The Secretary may require soil monitoring or innovative~~
18 ~~manure management as a BMP under this subsection. Soil monitoring or~~
19 ~~innovative manure management implemented as a BMP shall be eligible for~~
20 ~~State assistance under the Clean Water Fund established under 10 V.S.A.~~
21 ~~chapter 47, subchapter 7. If a perennial buffer of trees or other woody~~

1 ~~vegetation is required as a BMP, the Secretary shall pay the farmer for a first~~
2 ~~priority easement on the land on which the buffer is located.~~

3 ~~(d) Cooperation and coordination. The Secretary of Agriculture, Food and~~
4 ~~Markets shall coordinate with the Secretary of Natural Resources in~~
5 ~~implementing and enforcing programs, plans, and practices developed for~~
6 ~~reducing and eliminating agricultural nonpoint source pollutants and~~
7 ~~discharges from concentrated animal feeding operations. On or before July 1,~~
8 ~~2016, the Secretary of Agriculture, Food and Markets and the Secretary of~~
9 ~~Natural Resources shall revise the memorandum of understanding for the~~
10 ~~nonpoint program describing program administration, grant negotiation, grant~~
11 ~~sharing, and how they will coordinate watershed planning activities to comply~~
12 ~~with Pub. L. No. 92-500. The memorandum of understanding shall describe~~
13 ~~how the agencies will implement the antidegradation implementation policy,~~
14 ~~including how the agencies will apply the antidegradation implementation~~
15 ~~policy to new sources of agricultural nonpoint source pollutants. The~~
16 ~~Secretary of Agriculture, Food and Markets and the Secretary of Natural~~
17 ~~Resources shall also develop a memorandum of understanding according to the~~
18 ~~public notice and comment process of 10 V.S.A. § 1259(i) regarding the~~
19 ~~implementation of the federal Concentrated Animal Feeding Operation~~
20 ~~Program and the relationship between the requirements of the federal Program~~
21 ~~and the State agricultural water quality requirements for large, medium, and~~

1 ~~small farms under this chapter. The memorandum of understanding shall~~
2 ~~describe Program administration, permit issuance, an appellate process, and~~
3 ~~enforcement authority and implementation. The memorandum of~~
4 ~~understanding shall be consistent with the federal National Pollutant Discharge~~
5 ~~Elimination System permit regulations for discharges from concentrated~~
6 ~~animal feeding operations. The allocation of duties under this chapter between~~
7 ~~the Secretary of Agriculture, Food and Markets and the Secretary of Natural~~
8 ~~Resources shall be consistent with the Secretary's duties, established under the~~
9 ~~provisions of 10 V.S.A. § 1258(b), to comply with Pub. L. No. 92-500. The~~
10 ~~Secretary of Natural Resources shall be the State lead person in applying for~~
11 ~~federal funds under Pub. L. No. 92-500 but shall consult with the Secretary of~~
12 ~~Agriculture, Food and Markets during the process. The agricultural nonpoint~~
13 ~~source program may compete with other programs for competitive watershed~~
14 ~~projects funded from federal funds. The Secretary of Agriculture, Food and~~
15 ~~Markets shall be represented in reviewing these projects for funding. Actions~~
16 ~~by the Secretary of Agriculture, Food and Markets under this chapter~~
17 ~~concerning agricultural nonpoint source pollution shall be consistent with the~~
18 ~~water quality standards and water pollution control requirements of 10 V.S.A.~~
19 ~~chapter 47 and the federal Clean Water Act as amended. In addition, the~~
20 ~~Secretary of Agriculture, Food and Markets shall coordinate with the Secretary~~
21 ~~of Natural Resources in implementing and enforcing programs, plans, and~~

1 ~~practices developed for the proper management of composting facilities when~~
2 ~~those facilities are located on a farm. On or before January 15, 2016, the~~
3 ~~Secretary of Agriculture, Food and Markets and the Secretary of Natural~~
4 ~~Resources shall each develop three separate measures of the performance of~~
5 ~~the agencies under the memorandum of understanding required by this~~
6 ~~subsection. Beginning on January 15, 2017 and annually thereafter, the~~
7 ~~Secretary of Agriculture, Food and Markets and the Secretary of Natural~~
8 ~~Resources shall submit separate reports to the Senate Committee on~~
9 ~~Agriculture, the House Committee on Agriculture, Food Resiliency, and~~
10 ~~Forestry, the Senate Committee on Natural Resources and Energy, and the~~
11 ~~House Committee on Environment and Energy regarding the success of each~~
12 ~~agency in meeting the performance measures for the memorandum of~~
13 ~~understanding. [Repealed.]~~

14 § 4810a. ~~REQUIRED AGRICULTURAL PRACTICES; REVISION~~

15 ~~(a) The Secretary of Agriculture, Food and Markets shall maintain the~~
16 ~~Required Agricultural Practices in order to improve water quality in the State,~~
17 ~~ensure practices on all farms eliminate adverse impacts to water quality, and~~
18 ~~implement the small farm certification program required by section 4871 of~~
19 ~~this title. At a minimum, the Required Agricultural Practices shall:~~

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

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

5 ~~(B) shall be subject to the Required Agricultural Practices but shall~~
6 ~~not be required to comply with small farm certification requirements under~~
7 ~~section 4871 of this title.~~

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

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

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

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

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

19 ~~(i) siting of manure stacking or piling sites, fertilizer storage, or~~
20 ~~other nutrient storage within 200 feet, but not less than 100 feet, of a private~~
21 ~~well or surface water if the Secretary determines that the site is the best~~

1 ~~available site on the farm for the purposes of protecting groundwater quality or~~
2 ~~surface water quality; and~~

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

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

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

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

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

19 ~~(5) Require cropland on the farm to be cultivated in a manner that~~
20 ~~results in an average soil loss of less than or equal to the soil loss tolerance for~~
21 ~~the prevalent soil, known as 1T, as calculated through application of the~~

1 ~~Revised Universal Soil Loss Equation or through the application of similarly~~
2 ~~accepted models.~~

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

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

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

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

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

1 ~~(10) Establish standards for soil conservation practices such as cover~~
2 ~~cropping.~~

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

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

17 ~~(c) The Secretary shall amend the Required Agricultural Practices to~~
18 ~~include requirements for activities occurring in areas that are excluded from~~
19 ~~regulation by the Agency of Natural Resources under 10 V.S.A. § 902 because~~
20 ~~the area is used to grow food or crops in connection with farming activities.~~

21 ~~[Repealed.]~~

1 § 4811. POWERS OF SECRETARY

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

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

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

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

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

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

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

19 (7) Establish programs to improve agricultural water quality.

20 (8) Provide grants or contracts from agricultural water quality programs
21 established under this chapter, or by the Secretary of Agriculture, Food and

1 Markets, for the purpose of providing technical and financial assistance in
2 preventing agricultural pollution from entering groundwater and waters of the
3 State, provided that the Secretary shall only use capital funding available to the
4 Agency for water quality programs or projects that are eligible for capital
5 assistance.

6 * * *

7 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE ENVIRONMENTAL~~
8 ~~DIVISION~~

9 ~~(a) The Secretary of Agriculture, Food and Markets shall cooperate with~~
10 ~~the Secretary of Natural Resources in the basin planning process with regard to~~
11 ~~the agricultural nonpoint source waste component of each basin plan. Any~~
12 ~~person with an interest in the agricultural nonpoint source component of the~~
13 ~~basin planning process may petition the Secretary of Agriculture, Food and~~
14 ~~Markets to require, and the Secretary may require, best management practices~~
15 ~~in the individual basin beyond Required Agricultural Practices adopted by rule,~~
16 ~~in order to achieve compliance with the water quality goals in 10 V.S.A. §~~
17 ~~1250 and any duly adopted basin plan. The Secretary of Agriculture, Food and~~
18 ~~Markets shall hold a public hearing within 60 days and shall issue a timely~~
19 ~~written decision that sets forth the facts and reasons supporting the decision.~~

20 ~~(b) Any person engaged in farming that has been required by the Secretary~~
21 ~~of Agriculture, Food and Markets to implement best management practices or~~

1 ~~any person who has petitioned the Secretary of Agriculture, Food and Markets~~
2 ~~under subsection (a) of this section may appeal the Secretary of Agriculture,~~
3 ~~Food and Markets' decision to the Environmental Division de novo.~~

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

8 * * *

9 § 4815. WASTE STORAGE FACILITY

10 ~~(a) No person shall construct a new waste storage facility or expand or~~
11 ~~modify a waste storage facility in existence on July 1, 2006 unless the facility~~
12 ~~meets the standard established for such facilities by the Natural Resources~~
13 ~~Conservation Service of the U.S. Department of Agriculture or an equivalent~~
14 ~~standard. If an equivalent design standard is used, the design and construction~~
15 ~~shall be certified by the Secretary of Agriculture, Food and Markets or a~~
16 ~~licensed professional engineer operating within the scope of the engineer's~~
17 ~~expertise.~~

18 ~~(b) The Secretary may require the owner or operator of a waste storage~~
19 ~~facility in existence on July 1, 2006 to modify the facility to meet the standard~~
20 ~~set forth in subsection (a) of this section if the facility poses a threat to human~~
21 ~~health or the environment. If the Secretary determines that a facility that meets~~

1 ~~the standard set forth in subsection (a) of this section poses a threat to human~~
2 ~~health or the environment, the Secretary may require the owner or operator of~~
3 ~~the facility to implement additional management measures.~~

4 ~~(c) If the Secretary suspects that a waste storage facility may be~~
5 ~~contaminating groundwater, the Secretary shall pay the costs of any initial~~
6 ~~groundwater monitoring to determine whether a facility poses a threat to~~
7 ~~human health or the environment. Within 21 days after a determination under~~
8 ~~this subsection that a facility poses a threat to human health or the environment~~
9 ~~because of apparent violation of the Groundwater Protection Standards, the~~
10 ~~Secretary of Agriculture, Food and Markets shall notify the Department of~~
11 ~~Health and the Secretary of Natural Resources of the location of the facility~~
12 ~~and the name of its owner or operator.~~

13 ~~(d) As used in this section, “waste storage facility” means an impoundment~~
14 ~~made for the purpose of storing agricultural waste by constructing an~~
15 ~~embankment, excavating a pit or dugout, fabricating an inground and~~
16 ~~aboveground structure, or any combination thereof. [Repealed.]~~

17 ~~§ 4816. SEASONAL APPLICATION OF MANURE~~

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

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

9 ~~(c) Seasonal exemption. The Secretary of Agriculture, Food and Markets~~
10 ~~shall amend the Required Agricultural Practices by rule in order to establish a~~
11 ~~process under which the Secretary may authorize an exemption to the~~
12 ~~prohibition on the application of manure to land in the State between~~
13 ~~December 15 and April 1 of any calendar year or during any period established~~
14 ~~under subsection (b) of this section when manure is prohibited from~~
15 ~~application. Any process established for the issuance of an exemption under~~
16 ~~the Required Agricultural Practices may authorize land application of manure~~
17 ~~on a weekly, monthly, or seasonal basis or in authorized regions, areas, or~~
18 ~~fields in the State, provided that any exemption shall:~~

19 ~~(1) prohibit application of manure:~~

20 ~~(A) in areas with established channels of concentrated stormwater~~
21 ~~runoff to surface waters, including ditches and ravines;~~

1 ~~(B) in nonharvested permanent vegetative buffers;~~

2 ~~(C) in a nonfarmed wetland, as that term is defined in 10 V.S.A. §~~

3 ~~902(5);~~

4 ~~(D) within 50 feet of a potable water supply, as that term is defined in~~

5 ~~10 V.S.A. § 1972(6);~~

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~~

11 ~~plan; and~~

12 ~~(4) establish the maximum tons of manure that may be applied per acre~~

13 ~~during any one application. [Repealed.]~~

14 § 4817. MANAGEMENT OF NON-SEWAGE WASTE

15 ~~(a) As used in this section:~~

16 ~~(1) “Non-sewage waste” means any waste other than sewage that may~~

17 ~~contain organisms pathogenic to human beings but does not mean stormwater~~

18 ~~runoff.~~

19 ~~(2) “Sewage” means waste containing human fecal coliform and other~~

20 ~~potential pathogenic organisms from sanitary waste and used water from any~~

1 ~~building, including carriage water and shower and wash water. “Sewage” does~~
2 ~~not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.~~

3 ~~(b) The Secretary may require a person transporting or arranging for the~~
4 ~~transport of non-sewage waste to a farm for deposit in a manure pit or for use~~
5 ~~as an input in a methane digester to obtain approval from the Secretary prior to~~
6 ~~transporting the non-sewage waste to the farm. The Secretary may require a~~
7 ~~person to report to the Secretary at a designated time one or more of the~~
8 ~~following:~~

9 ~~(1) the composition of the material transported to the farm, including the~~
10 ~~source of the material; and~~

11 ~~(2) the volume of the material transported to a farm.~~

12 ~~(c) After receipt of a report required under subsection (b) of this section, the~~
13 ~~Secretary may prohibit the import of non-sewage waste onto a farm upon a~~
14 ~~determination that the import of the material would violate the nutrient~~
15 ~~management plan for the farm or otherwise present a threat to water quality.~~

16 [Repealed.]

17 * * *

18 Subchapter 3. Water Quality; Financial and Technical Assistance

19 * * *

1 ~~§ 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES~~

2 ~~(a) The owner or operator of a farm required under section 4815 of this title~~
3 ~~to design, construct, or modify a waste storage facility may apply in writing to~~
4 ~~the Secretary of Agriculture, Food and Markets for cost assistance. Using~~
5 ~~State or federal funds, or both, a State assistance grant shall be awarded,~~
6 ~~subject to the availability of funds, to applicants. Such grants shall not exceed~~
7 ~~90 percent of the cost of an adequately sized and designed waste storage~~
8 ~~facility and the equipment eligible for Natural Resources Conservation Service~~
9 ~~cost share assistance. Application for a State assistance grant shall be made in~~
10 ~~the manner prescribed by the Secretary.~~

11 ~~(b) If the Secretary lacks adequate funds necessary for the cost assistance~~
12 ~~awards required by subsection (a) of this section, the Secretary shall appear~~
13 ~~before the Emergency Board, as soon as possible, and shall request that~~
14 ~~necessary funds be provided. If the Emergency Board fails to provide~~
15 ~~adequate funds, the design and construction requirements for waste storage~~
16 ~~facilities under subsection 4815(b) of this title and the RAPs for groundwater,~~
17 ~~as they relate to a waste storage facility, shall be suspended for a farm with a~~
18 ~~waste storage facility subject to the requirements of subsection 4815(b) of this~~
19 ~~title until adequate funding becomes available. Suspension of the design and~~
20 ~~construction requirements of subsection 4815(b) of this title does not relieve an~~
21 ~~owner or operator of a farm permitted under section 4858 or 4851 of this title~~

1 ~~from the remaining requirements of the owner's or operator's permit, including~~
2 ~~discharge standards, groundwater protection, nutrient management planning,~~
3 ~~and land application of manure. This subsection does not apply to farms~~
4 ~~permitted under 10 V.S.A. § 1263.~~

5 ~~(e) The owner or operator of a farm with a waste storage facility may apply~~
6 ~~in writing to the Secretary of Agriculture, Food and Markets for a State~~
7 ~~assistance grant for the costs of complying with the U.S. Department of~~
8 ~~Agriculture Natural Resources Conservation Service requirements for~~
9 ~~inspection of a waste storage facility. Such grants shall not exceed 90 percent~~
10 ~~of the cost of the inspection of the waste storage facility. Application for a~~
11 ~~State assistance grant shall be made in the manner prescribed by the Secretary.~~

12 [Repealed.]

13 * * *

14 Sec. 7. REPEALS

15 (a) 6 V.S.A. § 4803 (Agricultural Water Quality Special Fund) shall be
16 repealed on July 1, 2027.

17 (b) 6 V.S.A. §§ 4850–4855 (regulation of large farm operations) shall be
18 repealed on July 1, 2027.

19 (c) 6 V.S.A. chapter 215, subchapter 5 (regulation of medium and small
20 farm operations) shall be repealed on July 1, 2027.

1 Sec. 9. 6 V.S.A. § 563 is amended to read:

2 § 563. HEMP; AN AGRICULTURAL PRODUCT

3 (a) Hemp is an agricultural product that may be grown as a crop produced,
4 possessed, marketed, and commercially traded in Vermont pursuant to the
5 provisions of this chapter and section 10113 of the Agriculture Improvement
6 Act of 2018, Pub. L. No. 115-334.

7 * * *

8 (d) The cultivation of hemp shall be subject to and comply with the
9 Required Agricultural Practices ~~adopted under section 4810 of this title, as~~
10 ~~amended~~ 10 V.S.A. § 1325.

11 Sec. 10. 6 V.S.A. § 918(b) is amended to read:

12 (b) The registrant shall pay an annual fee of \$200.00 for each product
13 registered, and \$185.00 of that amount shall be deposited in the special fund
14 created in section 929 of this title. Of the registration fees collected under this
15 subsection, \$15.00 of the amount collected shall be deposited in the
16 ~~Agricultural Water Quality Special Fund under section 4803 of this title~~ Clean
17 Water Fund established under 10 V.S.A. § 1388. Of the registration fees
18 collected under this subsection, \$25.00 of the amount collected shall be used to
19 offset the additional costs of inspection of economic poison products and to
20 provide educational services, training, and technical assistance to pesticide
21 applicators, beekeepers, and the general public regarding the effects of

1 pesticides on pollinators and the methods or best management practices to
2 reduce the impacts of pesticides on pollinators. The annual registration year
3 shall be from December 1 to November 30 of the following year.

4 Sec. 11. 10 V.S.A. § 905b is amended to read:

5 § 905b. DUTIES; POWERS

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

8 * * *

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. chapter
16 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 * * *

7 Sec. 12. 10 V.S.A. § 1266b(d) is amended to read:

8 (d) Application of fertilizer to impervious surface; in proximity to water;
9 and seasonal restriction. No person shall apply any fertilizer in one or more of
10 the following situations:

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

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

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

1 Sec. 13. 10 V.S.A. § 1389b is amended to read:

2 § 1389b. CLEAN WATER FUND AUDIT

3 (a) On or before January 15, 2023, the Secretary of Administration shall
4 submit to the House and Senate Committees on Appropriations, the Senate
5 Committee on Finance, the House Committee on Ways and Means, the Senate
6 Committee on Agriculture, the House Committee on Agriculture, Food
7 Resiliency, and Forestry, the Senate Committee on Natural Resources and
8 Energy, and the House Committee on Environment and Energy a program
9 audit of the Clean Water Fund. The audit shall include:

10 * * *

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

14 * * *

15 Sec. 14. 10 V.S.A. § 1446(b)(7) is amended to read:

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

18 (A) no impervious surface shall be created or expanded in a protected
19 shoreland area except: when no alternative outside the protected shoreland
20 area exists, the construction of a best management practice is necessary to
21 abate an agricultural water quality issue, and the best management practice is

1 approved by the Secretary of ~~Agriculture, Food and Markets under 6 V.S.A.~~
2 ~~chapter 215~~ Natural Resources under chapter 47, subchapter 3A of this title;
3 and

4 (B) the agricultural activities within the protected shoreland area
5 comply with the rules ~~adopted by~~ and permits the Secretary of ~~Agriculture,~~
6 ~~Food and Markets under 6 V.S.A. chapter 215 regarding agricultural water~~
7 ~~quality, including required agricultural practices, best management practices,~~
8 ~~medium and small farm operation, and large farm operation~~ Natural Resources
9 adopts under chapter 47, subchapter 3A of this title.

10 Sec. 15. 10 V.S.A. § 1671(8) is amended to read:

11 (8) “Required agricultural practices” shall be as defined ~~by the Secretary~~
12 ~~of Agriculture, Food and Markets under 6 V.S.A. § 4810~~ in section 13221 of
13 this title.

14 Sec. 16. 10 V.S.A. § 1679(c) is amended to read:

15 (c) Rules adopted by the Secretary under subsection (a) of this section shall
16 include provisions for the identification of agricultural lands, as defined in 32
17 V.S.A. § 3752, within public water source protection areas and for ensuring
18 that ~~required agricultural practices~~ farming, as that term is defined in section
19 6001 if this title, on those lands ~~are~~ is not unduly restricted by the development
20 of the public water source protection area without the consent of the owner of
21 those agricultural lands. Prior to the adoption of rules under this subsection,

1 the Secretary shall consult with the Secretary of Agriculture, Food and Markets
2 and, if possible, obtain concurrence of the Secretary of Agriculture, Food and
3 Markets. If the Secretary of Agriculture, Food and Markets does not concur,
4 the Secretary of Agriculture, Food and Markets shall state any objections in
5 writing², and those objections shall be included by the Secretary in filing the
6 final proposed rule with the Legislative Committee on Administrative Rules.

7 Sec. 17. 10 V.S.A. § 6001(3)(E) is amended to read:

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

19 Sec. 18. 10 V.S.A. § 6001(42) is amended to read:

20 (42) “Small farm” has the same meaning as in ~~6 V.S.A. § 4871~~ section
21 1321 of this title and also means a small farm that is subject to the Required

1 Agricultural Practices Rule (RAPs) and is not required to certify as a small
2 farm under ~~Section 4 of the RAPs,~~ section 1324c of this title and is not
3 required to ~~operate as a Medium Farm Operation under 6 V.S.A. § 4858,~~ and is
4 ~~not required to operate as a Large Farm Operation under 6 V.S.A. § 4851~~
5 obtain a CAFO permit under chapter 47, subchapter 3A of this title.

6 Sec. 19. 24 V.S.A. § 4413(d)(1) is amended to read:

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

8 (A) required agricultural practices, including the construction of farm
9 structures, as those practices are defined and administered by the Secretary of
10 ~~Agriculture, Food and Markets~~ Natural Resources;

11 * * *

12 Sec. 20. 32 V.S.A. § 3752(5)(D) is amended to read:

13 (D) “Development” also means notification of the Director by the
14 Secretary of ~~Agriculture, Food and Markets~~ Natural Resources under section
15 3756 of this title that the owner or operator of agricultural land or a farm
16 building is violating the water quality requirements of ~~6 V.S.A. chapter 215~~ 10
17 V.S.A. chapter 47 or is failing to comply with the terms of an order issued
18 under ~~6 V.S.A. chapter 215, subchapter 10~~ 10 V.S.A. chapter 201.

19 Sec. 21. 32 V.S.A. § 3756(i) is amended to read:

20 (i)(1) After providing 30 days’ notice to the owner, the Director shall
21 remove from use value appraisal an entire parcel of managed forestland and

1 notify the owner when the Commissioner of Forests, Parks and Recreation has
2 not received a required management activity report or has received an adverse
3 inspection report, unless the lack of conformance consists solely of the failure
4 to make prescribed planned cutting. In that case, the Director may delay
5 removal from use value appraisal for a period of one year at a time to allow
6 time to bring the parcel into conformance with the plan.

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

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

16 (ii) who is not in compliance with the terms of an administrative
17 or court order issued under ~~6 V.S.A. chapter 215, subchapter 10~~ 10 V.S.A.
18 chapter 201 to remedy a violation of the requirements of ~~6 V.S.A. chapter 215~~
19 10 V.S.A. chapter 47 or any rules adopted or any permit or certification issued
20 under ~~6 V.S.A. chapter 215~~ 10 V.S.A. chapter 47.

1 (B) The Director shall notify the owner that agricultural land or a
2 farm building has been removed from use value appraisal by providing
3 notification of removal to the owner. After removal of agricultural land or a
4 farm building from use value appraisal under this section, the Director shall not
5 consider a new application for use value appraisal for the agricultural land or
6 farm building until the Secretary of ~~Agriculture, Food and Markets~~ Natural
7 Resources submits to the Director a certification that the owner or operator of
8 the agricultural land or farm building is complying with the water quality
9 requirements of ~~6 V.S.A. chapter 215~~ 10 V.S.A. chapter 47 or an order issued
10 under ~~6 V.S.A. chapter 215~~ 10 V.S.A. chapter 47 or 10 V.S.A. chapter 201.
11 After submission of a certification by the Secretary of ~~Agriculture, Food and~~
12 ~~Markets~~ Natural Resources, an owner or operator shall be eligible to apply for
13 enrollment of the agricultural land or farm building according to the
14 requirements of this section.

15 Sec. 22. 32 V.S.A. § 3758(e) is amended to read:

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

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* * * Permit Fees * * *

Sec. 23. 3 V.S.A. § 2822(j) is amended to read:

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

* * *

(2) For discharge permits issued under 10 V.S.A. chapter 47 and orders issued under 10 V.S.A. § 1272, an administrative processing fee of \$240.00 shall be paid at the time of application for a discharge permit in addition to any application review fee and any annual operating fee, except for permit applications under subdivisions (A)(iii)(III) and (V) of this subdivision (j)(2):

(A) Application review fee:

* * *

(v) CAFO permit

<u>(I) Large CAFO</u>	<u>\$750.00</u>
<u>(II) Medium CAFO</u>	<u>\$500.00</u>
<u>(III) Small CAFO</u>	<u>\$250.00</u>

* * *

(B) Annual operating fee.

* * *

(vi) CAFO permit

