

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 49 entitled “An act relating to improving the quality of State
4 waters” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 * * * Findings and Purpose * * *

8 Sec. 1. FINDINGS AND PURPOSE

9 (a) Findings. The General Assembly finds that:

10 (1) Within the borders of Vermont there are 7,100 miles of rivers and
11 streams and 812 lakes and ponds of at least five acres in size.

12 (2) Vermont’s surface waters are vital assets that provide the citizens of
13 the State with clean water, recreation, and economic opportunity.

14 (3) The federal Clean Water Act and the Vermont Water Quality
15 Standards require that waters in the State shall not be degraded;

16 (4) To prevent degradation of waters and to preserve the uses, benefits,
17 and values of the lakes, rivers, and streams of Vermont, the Vermont Water
18 Quality Standards provide that it is the policy of the State to prevent, abate, or
19 control all activities harmful to water;

20 (5) Despite the State and federal mandates to maintain and prevent
21 degradation of State waters, multiple lakes, rivers, and streams in all regions of

1 the State are impaired, at risk of impairment, or subject to water quality

2 stressors, as indicated by the fact that:

3 (A) There are 81 waters or segments of waters in the State that are
4 impaired and require a total maximum daily load (TMDL) plan;

5 (B) There are 114 waters or segments of waters in the State that are
6 impaired and that have been issued a TMDL;

7 (C) There are at least 115 waters or water segments in the State that
8 are stressed, meaning that there is one or more factor or influence that prohibits
9 the water from maintaining a higher quality; and

10 (D) there are at least 56 waters in the State that are altered due to
11 aquatic nuisance species, meaning that one or more of the designated uses of
12 the water is prohibited due to the presence of aquatic nuisance species;

13 (4) Impairments and other alterations of water can significantly limit
14 how a water is used and whether it can maintained for traditional uses. For
15 example:

16 (A) Aquatic life is only fully supported in 59 percent of the State's
17 inland lakes, and

18 (B) Swimming is only fully supported on 76 percent of the State's
19 inland lakes.

20 (5) Without State action to improve the quality of State waters and
21 prevent further degradation of the quality of existing waters, the State of

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1 Vermont will be at risk of losing the valuable, if not necessary functions and
2 uses that the State's waters provide;

3 (6) Sufficiently addressing, improving, and forestalling degradation of
4 water quality in the State in a sustainable and effective manner will be
5 expensive and the burden of the expense will be felt by all citizens of the State,
6 but without action the economic, cultural, and environmental losses to the State
7 will be immeasurable;

8 (7) To protect the waters of the State and preserve the quality of life of
9 the citizens of Vermont, the State of Vermont should:

10 (A) fully implement the antidegradation implementation policy in the
11 Vermont Water Quality Standards;

12 (B) Enhance, implement, and enforce regulatory requirements for
13 water quality, and

14 (C) Sufficiently and sustainably finance all water quality programs
15 within the State.

16 (b) Purpose. It is the purpose of this act to:

17 (1) manage and regulate the waters of the State so that water quality is
18 improved and not degraded;

19 (2) manage and plan for the use of State waters and development in
20 proximity to State waters in manner that minimizes damage from and allows
21 for rapid recovery from flooding events;

1 (4) authorize and prioritize proactive measures designed to implement
 2 and meet the impending total maximum daily load (TMDL) plan for Lake
 3 Champlain, meet impending TMDL plans for other State waters, and improve
 4 water quality across the State;

5 (5) identify and prioritize areas in the State where there is the greatest
 6 need to act in order to protect, maintain, or improve water quality;

7 (6) engage all municipalities, agricultural operations, businesses, and
 8 other interested parties as part of the State’s efforts to improve the quality of
 9 the waters of the State; and

10 (7) provide mechanisms, staffing, and financing necessary for State
 11 waters to achieve and maintain compliance with the Vermont water quality
 12 standards.

13 * * * Agricultural Water Quality;

14 Definitions * * *

15 Sec. 2. 6 V.S.A. § 4802 is amended to read:

16 § 4802. ~~DEFINITION~~ DEFINITIONS

17 ~~For purposes of As used in this chapter, the word “secretary,” when used by~~
 18 ~~itself, means the secretary of agriculture, food and markets;~~

19 (1) “Agency” means the Agency of Agriculture, Food and Markets.

20 (2) “Farming” shall have the same meaning as used in 10 V.S.A.

21 § 6001(22).

1 (3) “Healthy soil” means soil that has a well-developed, porous
2 structure, is chemically balanced, supports diverse microbial communities, and
3 has abundant organic matter.

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

6 (5) “Secretary” means the Secretary of Agriculture, Food and Markets.

7 (6) “Top of bank” means the point along the bank of a stream where an
8 abrupt change in slope is evident, and where the stream is generally able to
9 overflow the banks and enter the adjacent floodplain during an annual flood
10 event. Annual flood event shall be determined according to the Agency of
11 Natural Resources’ Flood Hazard Area and River Corridor Protection
12 Procedure.

13 (7) “Waste” or “agricultural waste” means material originating or
14 emanating from a farm that is determined by the Secretary or the Secretary of
15 Natural Resources to be harmful to the waters of the State, including:
16 sediments; minerals, including heavy metals; plant nutrients; pesticides;
17 organic wastes, including livestock waste, animal mortalities, compost, feed
18 and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution;
19 silage runoff; untreated milkhouse waste; and any other farm waste as the term
20 “waste” is defined in 10 V.S.A. § 1251(12).

1 (vii) 1,250 ducks without a liquid manure handling system; or

2 (B) that is used for the preparation, tilling fertilization, planting,
3 protection, irrigation, and harvesting of crops for sale.

4 (b) Required small farm certification. A person who owns or operates a
5 small farm shall, on a form provided by the Secretary, certify compliance with
6 the required agricultural practices. The Secretary of Agriculture, Food and
7 Markets shall establish the requirements and manner of certification of
8 compliance with the required agricultural practices, provided that the Secretary
9 shall require an owner or operator of a farm to submit an annual certification of
10 compliance with the required agricultural practices.

11 (c) Certification due to water quality threat. The Secretary may require any
12 person who owns or operates a farm to submit a small farm certification under
13 this section if the person is not required to obtain a permit or submit a
14 certification under this chapter and the Secretary determines that the farm
15 poses a threat of discharge to a water of the State or presents a threat of
16 contamination to groundwater. The Secretary may waive a small farm
17 certification required under this subsection upon a determination that the farm
18 no longer poses a threat of discharge to a water of the State or no longer
19 presents a threat of contamination to groundwater.

20 (d) Rulemaking; small farm certification. On or before January 1, 2016,
21 the Secretary of Agriculture, Food and Markets shall adopt by rule

1 requirements for a small farm certification of compliance with the required
2 agricultural practices. The rules required by this subsection shall be adopted as
3 part of the required agricultural practices under section 4810 of this title.

4 (e) Small farm inspection. The Secretary may inspect a small farm in the
5 State at any time, but no less frequently than once every five years, for the
6 purposes of assessing compliance by the small farm with the required
7 agricultural practices and determining consistency with a certification of
8 compliance submitted by the person who owns or operates the small farm. The
9 Secretary may prioritize inspections of small farms in the State based on
10 identified water quality issues posed by a small farm.

11 (f) Notice of change of ownership or change of lease. A person who owns
12 or leases a small farm shall notify the Secretary of a change of ownership or
13 change of lessee of a small farm within 30 days of the change. The
14 notification shall include the certification of small farm compliance required
15 under subsection (a) of this section.

16 (g)(1) Identification; ranking of water quality needs. During an inspection
17 of a small farm under this section, the Secretary shall identify areas where the
18 farm could benefit from capital, structural, or technical assistance in order to
19 improve or come into compliance with the required agricultural practices and
20 any applicable State water quality permit or certification required under this
21 chapter.

1 (2) Notwithstanding the priority system established under section 4823
2 of this title, the Secretary annually shall establish a priority ranking system for
3 small farms according to the water quality benefit associated with the capital,
4 structural, or technical improvements identified as needed by the Secretary
5 during an inspection of the farm.

6 (3) Notwithstanding the priority system established by subdivision (2) of
7 this subsection, the Secretary may provide financial assistance to a small farm
8 at any time, regardless of the priority ranking system, if the Secretary
9 determines that the farm needs assistance to address a water quality issue that
10 requires immediate abatement.

11 (h) Fees. A person required to submit a certification under this section
12 shall submit an annual operating fee of \$250.00 to the Secretary. The fees
13 collected under this section shall be deposited in the Agricultural Water
14 Quality Special Fund under section 4803 of this title.

15 Sec. 4. 6 V.S.A. § 4810a is added to read:

16 § 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

17 (a) On or before July 1, 2016, the Secretary of Agriculture, Food, and
18 Markets shall amend by rule the required agricultural practices in order to
19 improve water quality in the State, assure practices on all farms eliminate
20 adverse impacts to water quality, and implement the small farm certification

1 program required by section 4871 of this title. At a minimum, the amendments
2 to the required agricultural practices shall:

3 (1) Specify those farms that:

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

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

11 (2)(A) Prohibit a farm from stacking manure, storing fertilizer, or
12 storing other nutrients on the farm:

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

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

16 (B) In no case shall manure stacking sites, fertilizer storage, or other
17 nutrient storage be located within 200 feet of a private well or within 200 feet
18 of a water of the State.

19 (3) Require the construction and management of barnyards, waste
20 management systems, animal holding areas, and production areas in a manner

1 to prevent runoff of waste to a surface water, to groundwater, or across
2 property boundaries.

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

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

6 (B) recommended practices for improving and maintaining soil
7 quality and healthy soils.

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

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

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

4 (7) Prohibit the construction or siting of a farm structure for the storage
5 of manure, fertilizer, or pesticide storage within a floodway area identified on a
6 National Flood Insurance Program Map on file with a town clerk.

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

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

13 (10) Establish standards for improving and managing healthy soils in
14 order to improve the capacity of soil to retain water, improve flood resiliency,
15 reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent
16 agricultural stormwater runoff.

17 (11) Establish standards for soil conservation practices such as cover
18 cropping.

19 (12) Allow for alternative techniques or practices, approved by the
20 Secretary, for compliance by an owner or operator of a farm when the owner or
21 operator cannot comply with the requirements of the required agricultural

1 practices due to site-specific conditions. Approved alternative techniques or
2 practices shall meet State requirements to reduce adverse impacts to water
3 quality.

4 (b) On or before January 15, 2018, the Secretary of Agriculture, Food and
5 Markets shall amend by rule the required agricultural practices in order to
6 include requirements for reducing nutrient contribution to waters of the State
7 from subsurface tile drainage. Upon adoption of requirements for subsurface
8 tile drainage, the Secretary may require an existing subsurface tile drain to
9 comply with the requirements of the RAPs for subsurface tile drainage upon a
10 determination that compliance is necessary to reduce adverse impacts to water
11 quality from the subsurface tile drain.

12 Sec. 5. REPORT ON MANAGEMENT OF SUBSURFACE TILE

13 DRAINAGE

14 (a) The Secretary of Agriculture, Food and Markets and the Secretary of
15 Natural Resources, after consultation with the U.S. Department of
16 Agriculture’s Natural Resource Conservation Service, shall submit a joint
17 report to the House Committee on Fish, Wildlife and Water Resources, the
18 Senate Committee on Natural Resources and Energy, the House Committee on
19 Agriculture and Forest Products, and the Senate Committee on Agriculture
20 regarding the status of current, scientific research relating to the environmental
21 management of subsurface agriculture tile drainage and how subsurface

1 agriculture tile drainage contributes to nutrient loading of surface waters. The
2 report shall include a recommendation from the Secretary of Agriculture, Food
3 and Markets and the Secretary of Natural Resources regarding how best to
4 manage subsurface agriculture tile drainage in the State in order to mitigate
5 and prevent the contribution of tile drainage to waters of the State.

6 (b) On or before January 15, 2016, the Secretary of Agriculture, Food and
7 Markets and the Secretary of Natural Resources shall submit an interim report
8 that summarizes the progress of the Secretaries in preparing the report required
9 by this section. The Secretary of Agriculture, Food and Markets and the
10 Secretary of Natural Resources shall submit the final report required by this
11 section on or before January 15, 2017.

12 * * * Agricultural Water Quality; Permit Fees * * *

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

14 § 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

15 (a) No person shall, without a permit from the ~~secretary~~ Secretary,
16 construct a new barn, or expand an existing barn, designed to house more than
17 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves,
18 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55
19 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens
20 or broilers with a liquid manure handling system, 82,000 laying hens without a
21 liquid manure handling system, 125,000 chickens other than laying hens

1 without a liquid manure handling system, 5,000 ducks with a liquid manure
2 handling system, or 30,000 ducks without a liquid manure handling system.
3 No permit shall be required to replace an existing barn in use for livestock or
4 domestic fowl production at its existing capacity. The ~~secretary of agriculture,~~
5 ~~food and markets~~ Secretary of Agriculture, Food and Markets, in consultation
6 with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall
7 review any application for a permit under this section with regard to water
8 quality impacts and, prior to approval of a permit under this subsection, shall
9 issue a written determination regarding whether the applicant has established
10 that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant
11 to the federal regulations for concentrated animal feeding operations. If upon
12 review of an application for a permit under this subsection, the ~~secretary of~~
13 ~~agriculture, food and markets~~ Secretary of Agriculture, Food and Markets
14 determines that the permit applicant may be discharging to waters of the ~~state~~
15 State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
16 Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural
17 Resources shall respond to the discharge in accordance with the memorandum
18 of understanding regarding concentrated animal feeding operations under
19 subsection ~~4810(b)~~ 4810 of this title. The ~~secretary of natural resources~~
20 Secretary of Natural Resources may require a large farm to obtain a permit

1 under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal
2 feeding operations.

3 * * *

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

6 (i) A person required to obtain a permit under this section shall submit an
7 annual operating fee of \$2,500.00 to the Secretary. The fees collected under
8 this section shall be deposited in the Clean Water Fund under 10 V.S.A.
9 § 1388.

10 Sec. 7. 6 V.S.A. § 4858 is amended to read:

11 § 4858. ~~ANIMAL WASTE PERMITS~~ MEDIUM FARM OPERATION
12 PERMITS

13 (a) No person shall operate a medium farm without authorization from the
14 ~~secretary~~ Secretary pursuant to this section. Under exceptional conditions,
15 specified in subsection ~~(e)~~(d) of this section, authorization from the ~~secretary~~
16 Secretary may be required to operate a small farm.

17 (b) Rules; general and individual permits. The ~~secretary~~ Secretary shall
18 establish by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, requirements for a
19 “general permit” and “individual permit” to ~~ensure~~ assure that medium and
20 small farms generating animal waste comply with the water quality standards
21 of the ~~state~~ State.

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(2) The rules adopted under this section shall also address permit administration, public notice and hearing, permit enforcement, permit transition, revocation, and appeals consistent with provisions of sections 4859; ~~4860~~; and 4861 of this title and subchapter 10 of this chapter.

(3) Each general permit issued pursuant to this section shall have a term of no more than five years. Prior to the expiration of each general permit, the ~~secretary~~ Secretary shall review the terms and conditions of the general permit and may issue subsequent general permits with the same or different conditions as necessary to carry out the purposes of this subchapter. Each general permit shall include provisions that require public notice of the fact that a medium farm has sought coverage under a general permit adopted pursuant to this section. Each general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive coverage under the general permit. The Secretary may inspect each farm seeking coverage under the general permit at any time, but no less frequently than once every three years.

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm

1 does comply with permit requirements regarding an adequately sized and
2 designed manure management system to accommodate the wastes generated
3 and a nutrient management plan to dispose of wastes in accordance with
4 ~~accepted~~ required agricultural practices adopted under this chapter. Any
5 certification or notice of intent to comply submitted under this subdivision
6 shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of
7 Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~
8 Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary~~
9 ~~of natural resources~~ Secretary of Natural Resources, shall review any
10 certification or notice of intent to comply submitted under this subdivision
11 with regard to the water quality impacts of the medium farm for which the
12 owner or operator is seeking coverage, and, within 18 months of receiving the
13 certification or notice of intent to comply, shall verify whether the owner or
14 operator of the medium farm has established that there will be no unpermitted
15 discharge to waters of the ~~state~~ State pursuant to the federal regulations for
16 concentrated animal feeding operations. If upon review of a medium farm
17 granted coverage under the general permit adopted pursuant to this subsection,
18 the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
19 and Markets determines that the permit applicant may be discharging to waters
20 of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of
21 Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary

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1 of Natural Resources shall respond to the discharge in accordance with the
2 memorandum of understanding regarding concentrated animal feeding
3 operations under ~~subsection 4810(b)~~ section 4810 of this title.

4 * * *

5 (e) A person required to obtain a permit or coverage under this section shall
6 submit an annual operating fee of \$1,500.00 to the Secretary. The fees
7 collected under this section shall be deposited in the Clean Water Fund under
8 10 V.S.A. § 1388.

9 Sec. 8. 6 V.S.A. § 324 is amended to read:

10 § 324. REGISTRATION AND FEES

11 (a) No person shall manufacture a commercial feed in this State unless that
12 person has first filed with the Vermont Agency of Agriculture, Food and
13 Markets, in a form and manner to be prescribed by rules by the Secretary:

- 14 (1) the name of the manufacturer;
15 (2) the manufacturer's place of business;
16 (3) the location of each manufacturing facility; and
17 (4) any other information which the Secretary considers to be necessary.

18 (b) A person shall not distribute in this State a commercial feed that has not
19 been registered pursuant to the provisions of this chapter. Application shall be
20 in a form and manner to be prescribed by rule of the Secretary. The
21 application for registration of a commercial feed shall be accompanied by a

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1 registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees
2 collected, \$85.00 of each collected fee, along with any surcharges collected
3 under subsection (c) of this section, shall be deposited in the special fund
4 created by subsection 364(e) of this title. Funds deposited in this account shall
5 be restricted to implementing and administering the provisions of this title and
6 any other provisions of the law relating to fertilizer, lime, or seeds. Of the
7 registration fees collected, \$15.00 of each collected fee shall be deposited in
8 the Clean Water Fund under 10 V.S.A. § 1388. If the Secretary so requests,
9 the application for registration shall be accompanied by a label or other printed
10 matter describing the product.

11 (c) No person shall distribute in this State any feed required to be registered
12 under this chapter upon which the Secretary has placed a withdrawal from
13 distribution order because of nonregistration. A surcharge of \$10.00, in
14 addition to the registration fee required by subsection (b) of this section, shall
15 accompany the application for registration of each product upon which a
16 withdrawal from distribution order has been placed for reason of
17 nonregistration, and must be received before removal of the withdrawal from
18 distribution order.

1 Sec. 9. 6 V.S.A. § 328 is amended to read:

2 § 328. TONNAGE REPORTING

3 (a) Every person who registers a commercial feed pursuant to the
4 provisions of this chapter shall report to the ~~agency of agriculture, food and~~
5 ~~markets~~ Agency of Agriculture, Food and Markets annually the total amount of
6 combined feed which is distributed within the ~~state~~ State and which is intended
7 for use within the ~~state~~ State. The report shall be made on forms and in a
8 manner to be prescribed ~~by rules~~ by the ~~secretary~~ Secretary for calendar years
9 ~~1986~~ 2016 and ~~1987~~ 2017.

10 (b) This reporting requirement shall not apply to pet foods, within the
11 meaning of subdivisions 323(16) and (19) of this title, and shall not apply to
12 feeds intended for use outside ~~of~~ the ~~state~~ State.

13 Sec. 10. 6 V.S.A. § 366 is amended to read:

14 § 366. TONNAGE FEES

15 (a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers
16 distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~
17 fee at a rate of \$0.25 cents per ton.

18 (b) Persons distributing fertilizer shall report annually by January 15 for the
19 previous year ending December 31 to the ~~secretary~~ Secretary revealing the
20 amounts of each grade of fertilizer and the form in which the fertilizer was
21 distributed within this ~~state~~ State. Each report shall be accompanied with

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1 payment and written permission allowing the ~~secretary~~ Secretary to examine
2 the person's books for the purpose of verifying tonnage reports.

3 (c) No information concerning tonnage sales furnished to the ~~secretary~~
4 Secretary under this section shall be disclosed in such a way as to divulge the
5 details of the business operation to any person unless it is necessary for the
6 enforcement of the provisions of this chapter.

7 (d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors~~
8 ~~who distribute fertilizers in this state. [Repealed.]~~

9 (e) Agricultural limes, including agricultural lime mixed with wood ash,
10 are exempt from the tonnage fees required in this section.

11 (f) Lime and wood ash mixtures may be registered as agricultural liming
12 materials and guaranteed for potassium or potash provided that the wood ash
13 totals less than 50 percent of the mixture.

14 (g) All fees collected under subsection (a) of this section shall be deposited
15 in the revolving fund created by section 364(e) of this title and used in
16 accordance with its provisions.

17 (h) There shall be paid annually to the Secretary for all fertilizers
18 distributed to a nonregistrant consumer in this State an annual fee at a rate of
19 \$15.00 per ton for the purpose of supporting agricultural water quality
20 programs in Vermont.

1 (1) Persons distributing fertilizer shall report annually on or before
2 January 15 for the previous year ending December 31 to the Secretary
3 revealing the amounts of each grade of fertilizer and the form in which the
4 fertilizer was distributed within this State. Each report shall be accompanied
5 with payment and written permission allowing the Secretary to examine the
6 person's books for the purpose of verifying tonnage reports.

7 (2) No information concerning tonnage sales furnished to the Secretary
8 under this section shall be disclosed in such a way as to divulge the details of
9 the business operation to any person unless it is necessary for the enforcement
10 of the provisions of this chapter.

11 (3) A \$150.00 minimum tonnage fee shall be assessed on all distributors
12 who distribute fertilizers in this State.

13 (4) Agricultural limes, including agricultural lime mixed with wood ash,
14 are exempt from the tonnage fees required under this subsection.

15 (5) All fees collected under this subsection shall be deposited in the
16 deposited in the in the Clean Water Fund under 10 V.S.A. § 1388.

17 Sec. 11. 6 V.S.A. § 918 is amended to read:

18 § 918. REGISTRATION

19 (a) Every economic poison which is distributed, sold, or offered for sale
20 within this State or delivered for transportation or transported in intrastate
21 commerce or between points within this State through any point outside this

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1 State shall be registered in the Office of the Secretary, and such registration
2 shall be renewed annually; provided, that products which have the same
3 formula, are manufactured by the same person, the labeling of which contains
4 the same claims, and the labels of which bear a designation identifying the
5 product as the same economic poison may be registered as a single economic
6 poison; and additional names and labels shall be added by supplement
7 statements during the current period of registration. It is further provided that
8 any economic poison imported into this State, which is subject to the
9 provisions of any federal act providing for the registration of economic poisons
10 and which has been duly registered under the provisions of this chapter, may,
11 in the discretion of the Secretary, be exempted from registration under this
12 chapter, when sold or distributed in the unbroken immediate container in
13 which it was originally shipped. The registrant shall file with the Secretary a
14 statement including:

15 (1) The name and address of the registrant and the name and address of
16 the person whose name will appear on the label, if other than the registrant.

17 (2) The name of the economic poison.

18 (3) A complete copy of the labeling accompanying the economic poison
19 and a statement of all claims to be made for it, including directions for use.

20 (4) If requested by the Secretary, a full description of the tests made and
21 the results thereof upon which the claims are based. In the case of renewal of

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1 registration, a statement shall be required only with respect to information
2 which is different from that furnished when the economic poison was
3 registered or last re-registered.

4 (b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each
5 product registered, and \$110.00 of that amount shall be deposited in the special
6 fund created in section 929 of this title, of which \$5.00 from each product
7 registration shall be used for an educational program related to the proper
8 purchase, application, and disposal of household pesticides, and \$5.00 from
9 each product registration shall be used to collect and dispose of obsolete and
10 unwanted pesticides. Of the registration fees collected under this subsection,
11 \$15.00 of the amount collected shall be deposited in the Clean Water Fund
12 under 10 V.S.A. § 1388. The annual registration year shall be from
13 December 1 to November 30 of the following year.

14 * * *

15 * * * Agricultural Water Quality; Required Agricultural Practices; Best
16 Management Practices * * *

17 Sec. 12. 6 V.S.A. § 4810 is amended to read:

18 § 4810. AUTHORITY; COOPERATION; COORDINATION

19 (a) Agricultural land use practices. In accordance with 10 V.S.A.
20 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.
21 chapter 25 of ~~Title 3~~, and shall implement and enforce agricultural land use

1 practices in order to ~~reduce the amount of agricultural pollutants entering the~~
2 ~~waters of the state~~ satisfy the requirements of 33 U.S.C. § 1329 that the State
3 identify and implement best management practices to control nonpoint sources
4 of agricultural waste to waters of the State. These agricultural land use
5 practices shall be created in ~~two~~ three categories, pursuant to ~~subdivisions (1)~~
6 ~~and (2) of this subsection~~ subsections (b), (c), and (d) of this section.

7 (1)(b) Required Agricultural Practices. “~~Accepted~~ Required
8 Agricultural Practices” (~~AAPs~~) (RAPs) shall be management standards to be
9 ~~followed in conducting agricultural activities~~ by all persons engaged in
10 farming in this state State. These standards shall address activities which have
11 a potential for causing agricultural pollutants to enter the groundwater and
12 waters of the ~~state~~ State, including dairy and other livestock operations plus all
13 forms of crop and nursery operations and on-farm or agricultural fairground,
14 registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and
15 processing activities. The ~~AAPs~~ RAPs shall include, as well as promote and
16 encourage, practices for farmers in preventing agricultural pollutants from
17 entering the groundwater and waters of the ~~state~~ State when engaged in, ~~but~~
18 ~~not limited to~~, animal waste management and disposal, soil amendment
19 applications, plant fertilization, and pest and weed control. Persons engaged in
20 farming, ~~as defined in 10 V.S.A. § 6001,~~ who ~~follow~~ are in compliance with
21 these practices shall be presumed ~~to be in compliance with water quality~~

1 standards to not have a discharge of agricultural pollutants to waters of the
2 State. AAs RAPs shall be designed to protect water quality and shall be
3 practical and ~~cost-effective~~ cost-effective to implement, as determined by the
4 Secretary. Where the Secretary determines, after inspection of a farm, that a
5 person engaged in farming is complying with the RAPs but there still exists the
6 potential for agricultural pollutants to enter the waters of the State, the
7 Secretary shall require the person to implement additional, site-specific on
8 farm conservation practices designed to prevent agricultural pollutants from
9 entering the waters of the State. When requiring implementation of a
10 conservation practice under this subsection, the Secretary shall inform the
11 person engaged in farming of the resources available to assist the person in
12 implementing the conservation practice and complying with the requirements
13 of this chapter. The AAs RAPs for groundwater shall include a process under
14 which the ~~agency~~ Agency shall receive, investigate, and respond to a complaint
15 that a farm has contaminated the drinking water or groundwater of a property
16 owner. A farmer may petition the Secretary to reduce the size of a perennial
17 buffer or change the perennial buffer type based on site-specific conditions.

18 ~~(2)(c) Best Management Practices. “Best Management Practices” (BMPs)~~
19 ~~may be required by the secretary on a case by case basis. Before requiring~~
20 ~~BMPs, the secretary shall determine that sufficient financial assistance is~~
21 ~~available to assist farmers in achieving compliance with applicable BMPs.~~

1 Best management practices (BMPs) are site-specific on-farm conservation
2 practices implemented in order to address the potential for agricultural
3 pollutants to enter the waters of the State. The Secretary may require any
4 person engaged in farming to implement a BMP. When requiring
5 implementation of a BMP, the Secretary shall inform a farmer of financial
6 resources available from State or federal sources, private foundations, public
7 charities, or other source, including funding from the Clean Water Fund
8 established under 10 V.S.A. § 1387, to assist the person in implementing
9 BMPs and complying with the requirements of this chapter. BMPs shall be
10 practical and cost effective to implement, as determined by the Secretary, and
11 shall be designed to achieve compliance with the requirements of this chapter.
12 The Secretary may require soil monitoring or innovative manure management
13 as a BMP under this subsection. Soil monitoring or innovative manure
14 management implemented as a BMP shall be eligible for State assistance under
15 section 2822 of this title. If a perennial buffer of trees or other woody
16 vegetation is required as a BMP, the Secretary shall pay the farmer for a first
17 priority easement on the land on which the buffer is located.

18 ~~(b)~~(e) Cooperation and coordination. The ~~secretary of agriculture, food and~~
19 ~~markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the
20 ~~secretary of natural resources~~ Secretary of Natural Resources in implementing
21 and enforcing programs, plans, and practices developed for reducing and

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1 eliminating agricultural non-point source pollutants and discharges from
2 concentrated animal feeding operations. ~~The secretary of agriculture, food and~~
3 ~~markets~~ On or before July 1, 2016, the Secretary of Agriculture, Food and
4 Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources
5 shall ~~develop a~~ revise the memorandum of understanding for the non-point
6 program describing program administration, grant negotiation, grant sharing,
7 and how they will coordinate watershed planning activities to comply with
8 Public Law 92-500. The memorandum of understanding shall describe how
9 the agencies will implement the antidegradation implementation policy,
10 including how the agencies will apply the antidegradation implementation
11 policy to new sources of agricultural non-point source pollutants. The
12 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
13 Markets and the ~~secretary of the agency of natural resources~~ Secretary of
14 Natural Resources shall also develop a memorandum of understanding
15 according to the public notice and comment process of 10 V.S.A. § 1259(i)
16 regarding the implementation of the federal concentrated animal feeding
17 operation program and the relationship between the requirements of the federal
18 program and the ~~state~~ State agricultural water quality requirements for large,
19 medium, and small farms under this chapter ~~215 of this title~~. The
20 memorandum of understanding shall describe program administration, permit
21 issuance, an appellate process, and enforcement authority and implementation.

1 The memorandum of understanding shall be consistent with the federal
2 National Pollutant Discharge Elimination System permit regulations for
3 discharges from concentrated animal feeding operations. The allocation of
4 duties under this chapter between the ~~secretary of agriculture, food and~~
5 ~~markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of~~
6 ~~natural resources~~ Secretary of Natural Resources shall be consistent with the
7 ~~secretary's~~ Secretary's duties, established under the provisions of 10 V.S.A.
8 § 1258(b), to comply with Public Law 92-500. The ~~secretary of natural~~
9 ~~resources~~ Secretary of Natural Resources shall be the ~~state~~ State lead person in
10 applying for federal funds under Public Law 92-500, but shall consult with the
11 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
12 Markets during the process. The agricultural non-point source program may
13 compete with other programs for competitive watershed projects funded from
14 federal funds. The ~~secretary of agriculture, food and markets~~ Secretary of
15 Agriculture, Food and Markets shall be represented in reviewing these projects
16 for funding. Actions by the ~~secretary of agriculture, food and markets~~
17 Secretary of Agriculture, Food and Markets under this chapter concerning
18 agricultural non-point source pollution shall be consistent with the water
19 quality standards and water pollution control requirements of 10 V.S.A.
20 chapter 47 ~~of Title 10~~ and the federal Clean Water Act as amended. In
21 addition, the ~~secretary of agriculture, food and markets~~ Secretary of

1 Agriculture, Food and Markets shall coordinate with the ~~secretary of natural~~
2 ~~resources~~ Secretary of Natural Resources in implementing and enforcing
3 programs, plans, and practices developed for the proper management of
4 composting facilities when those facilities are located on a farm. On or before
5 January 15, 2016, the Secretary of Agriculture, Food and Markets and the
6 Secretary of Natural Resources shall each develop three separate measures of
7 the performance of the agencies under the memorandum of understanding
8 required by this subsection. Beginning January 15, 2017, and annually
9 thereafter, the Secretary of Agriculture, Food and Markets and the Secretary of
10 Natural Resources shall submit separate reports to the Senate Committee on
11 Agriculture, the House Committee on Agriculture and Forest Products, the
12 Senate Committee on Natural Resources and Energy, and the House
13 Committee on Fish, Wildlife and Water Resources regarding the success of
14 each agency in meeting the performance measures for the memorandum of
15 understanding.

16 Sec. 13. LEGISLATIVE COUNCIL STATUTORY REVISION

17 AUTHORITY; REQUIRED AGRICULTURAL PRACTICES

18 The Office of Legislative Council, in its statutory revision capacity, is
19 directed to make amendments to the cumulative supplements of the Vermont
20 Statutes Annotated to change the terms “accepted agricultural practices” to
21 “required agricultural practices” and “AAPs” to “RAP” where appropriate.

1 These changes shall also be made when new legislation is proposed or when
2 there is a republication of the Vermont Statutes Annotated.

3 Sec. 14. 6 V.S.A. § 4813 is amended to read:

4 § 4813. BASIN MANAGEMENT; APPEALS TO THE WATER

5 ~~RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

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

20 (b) Any person engaged in farming that has been required by the ~~secretary~~
21 ~~of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to

1 implement best management practices or any person who has petitioned the
2 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
3 Markets under subsection (a) of this section may appeal the ~~secretary of~~
4 ~~agriculture, food and market's~~ Secretary of Agriculture, Food and Markets'
5 decision to the ~~environmental division~~ Environmental Division de novo.

6 (c) ~~Before requiring best management practices under this section, the~~
7 ~~secretary of agriculture, food and markets or the board shall determine that~~
8 ~~sufficient financial assistance is available to assist farmers in achieving~~
9 ~~compliance with applicable best management practices~~ When requiring
10 implementation of a best management practice, the Secretary shall inform a
11 farmer of the resources available to assist the farmer in implementing the best
12 management practice and complying with the requirements of this chapter.

13 * * * Agricultural Water Quality; Training * * *

14 Sec. 15. 6 V.S.A. chapter 215, subchapter 8 is added to read:

15 Subchapter 8. Agricultural Water Quality Training

16 § 4981. AGRICULTURAL WATER QUALITY TRAINING

17 (a) On or before July 1, 2016, as part of the revisions of the required
18 agricultural practices, the Secretary of Agriculture, Food and Markets shall
19 adopt by rule requirements for training classes or programs for owners or
20 operators of small farms, medium farms, or large farms certified or permitted
21 under this chapter regarding:

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1 (1) the prevention of discharges, as that term is defined in 10 V.S.A.

2 § 1251(3); and

3 (2) the mitigation and management of stormwater runoff, as that term is
4 defined in 10 V.S.A. § 1264, from farms.

5 (b) Any training required under this section shall address:

6 (1) the existing statutory and regulatory requirements for operation of a
7 large, medium, or small farm in the State;

8 (2) the management practices and technical and financial resources
9 available to assist in compliance with statutory or regulatory agricultural
10 requirements;

11 (3) the land application of manure or nutrients, methods or techniques to
12 minimize the runoff of land-applied manure or nutrients to waters of the State;
13 and identification of weather or soil conditions that increase the risk of runoff
14 of land-applied manure or nutrients to waters of the State; and

15 (4) standards required for nutrient management, including nutrient
16 management planning.

17 (c) The Secretary shall include the training required by this section as a
18 condition of a large farm permit, medium farm permit, or small farm
19 certification required under this chapter. The Secretary may phase in training
20 requirements under this section based on farm size, permit or certification
21 category, or available staffing. On or before January 1, 2017 the Secretary

1 shall establish a schedule by which all owners or operators of small farms,
 2 medium farms, or large farms shall complete the training required by this
 3 section.

4 (d) The Secretary may approve or authorize the training required by this
 5 section to be conducted by other entities, including the University of Vermont
 6 Extension Service and the natural resources conservation districts.

7 (e) The Secretary shall not charge the owner or operator of a large,
 8 medium, or small farm for the training required by this section. The Secretary
 9 shall pay for the training required under this section from funds available to the
 10 Agency of Agriculture, Food and Markets for water quality initiatives.

11 * * * Agricultural Water Quality;

12 Certification of Custom Applicators * * *

13 Sec. 16. 6 V.S.A. chapter 215, subchapter 9 is added to read:

14 Subchapter 9. Certification of Custom Applicators of Manure or Nutrients

15 § 4987. DEFINITIONS

16 As used in this subchapter, “custom applicator” means a person engaged in
 17 the business of applying manure or nutrients to land and who charges or
 18 collects other consideration for the service. “Custom applicator” shall include
 19 employees of a person engaged in the business of applying manure or nutrients
 20 to land, when the employees apply manure or nutrients to land.

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1 § 4988. CERTIFICATION OF CUSTOM APPLICATOR

2 (a) On or before July 1, 2016, as part of the revision of the required
3 agricultural practices, the Secretary of Agriculture, Food and Markets shall
4 adopt by rule a process by which a custom applicator shall be certified to
5 operate within the State. The certification process shall require a custom
6 applicator to complete eight hours of training over each five-year period
7 regarding:

8 (1) application methods or techniques to minimize the runoff of
9 land-applied manure or nutrients to waters of the State; and

10 (2) identification of weather or soil conditions that increase the risk of
11 runoff of land-applied manure or nutrients to waters of the State.

12 (b) A custom applicator shall not apply manure or nutrients unless certified
13 by the Secretary of Agriculture, Food and Markets.

14 (c) A custom applicator certified under this section shall train seasonal
15 employees in methods or techniques to minimize runoff to surface waters and
16 to identify weather or soil conditions that increase the risk of runoff. A custom
17 applicator that trains a seasonal employee under this subsection shall be liable
18 for damages done and liabilities incurred by a seasonal employee who
19 improperly applies manure or nutrients.

20 (d) The requirements of this section shall not apply to an owner or operator
21 of a farm applying manure or nutrients to a field that he or she owns or

1 controls, provided that the owner or operator has completed the agricultural
 2 water quality training required under section 4981 of this title.

3 * * * Agricultural Water Quality; Enforcement; Corrective Actions * * *

4 Sec. 17. 6 V.S.A. chapter 215, subchapter 10 is added to read:

5 Subchapter 10. Enforcement

6 § 4991. PURPOSE

7 The purpose of this subchapter is to provide the Secretary of Agriculture,
 8 Food and Markets with the necessary authority to enforce the agricultural
 9 water quality requirements of this chapter. When the Secretary of Agriculture,
 10 Food and Markets determines that a person subject to the requirements of the
 11 chapter is violating a requirement of this chapter, the Secretary shall respond to
 12 and require discontinuance of the violation. The Secretary may respond to a
 13 violation of the requirements of this chapter by:

14 (1) issuing a corrective action order under section 4992 of this title;

15 (2) issuing a cease and desist order under section 4993 of this title;

16 (3) issuing an emergency order under section 4993 of this title;

17 (4) revoking or conditioning coverage under a permit or certification
 18 under section 4994 of this title;

19 (5) bringing a civil enforcement action under section 4995 of this title;

20 (6) referring the violation to the Secretary of Natural Resources for
 21 enforcement under 10 V.S.A. chapter 201; or

1 (7) pursuing other action, such as consulting with a farmer, within the
2 authority of the Secretary to assure discontinuance of the violation and
3 remediation of any harm caused by the violation.

4 § 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

5 (a) When the Secretary of Agriculture, Food and Markets receives a
6 complaint and determines that a farmer is in violation of the requirements of
7 this chapter, rules adopted under this chapter, or a permit or certification issued
8 under this chapter, the Secretary shall notify the farmer as soon as is
9 practicable during the initial investigation response. The Secretary shall
10 include the alleged violation in the notice of complaint provided to a farmer
11 under this subsection. The Secretary shall not be required to identify the
12 source of the complaint.

13 (b) When the Secretary of Agriculture, Food and Markets determines that a
14 person is violating the requirements of this chapter, rules adopted under this
15 chapter, or a permit or certification issued under this chapter, the Secretary
16 may issue a written warning that shall be served in person or by certified mail,
17 return receipt requested. A warning issued under this subsection shall include:

18 (1) a description of the alleged violation;

19 (2) identification of this section;

20 (3) identification of the applicable statute, rule, or permit condition

21 violated;

1 (4) the required corrective actions that the person shall take to correct
2 the violation; and

3 (5) a summary of federal and State assistance programs that may be
4 utilized by the person to assist in correcting the violation.

5 (c) A person issued a warning under this section shall have 30 days to
6 respond to the written warning and shall provide an abatement schedule for
7 curing the violation and a description of the corrective action to be taken to
8 cure the violation.

9 (d) If a person who receives a warning under this subsection fails to
10 respond in a timely manner to the written warning or to take corrective action,
11 the Secretary may act pursuant to section 4993 or section 4995 of this section
12 in order to protect water quality.

13 § 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST
14 ORDERS; EMERGENCY ORDERS

15 (a) Notwithstanding the requirements of section 4992 of this title, the
16 Secretary at any time may pursue one or more of the following enforcement
17 actions:

18 (1) Issue a cease and desist order in accordance with the requirements of
19 subsection (b) of this section to a person the Secretary believes to be in
20 violation of the requirements of this chapter.

1 (2) Issue emergency administrative orders to protect water quality when
2 an alleged violation, activity, or farm practice:

3 (A) presents an immediate threat of substantial harm to the
4 environment or immediate threat to the public health or welfare;

5 (B) is likely to result in an immediate threat of substantial harm to the
6 environment or immediate threat to the public health or welfare; or

7 (C) requires a permit or amendment to a permit issued under this
8 chapter and a farm owner or operator has commenced an activity or is
9 continuing an activity without a permit or permit amendment.

10 (3) Institute appropriate proceedings on behalf of the Agency of
11 Agriculture, Food and Markets to enforce the requirements of this chapter,
12 rules adopted under this chapter, or a permit or certification issued under this
13 chapter.

14 (4) Order mandatory corrective actions, including a requirement that the
15 owner or operator of a farm sell or otherwise remove livestock from a farm or
16 production area when the volume of waste produced by livestock on the farm
17 exceeds the infrastructure capacity of the farm or the production area to
18 manage the waste or waste leachate and prevent runoff or leaching of wastes to
19 waters of the State or groundwater, as required by this chapter.

20 (5) Seek administrative or civil penalties in accordance with the
21 requirements of section 15, 16, 17, or 4995 of this title. Notwithstanding the

1 requirements of section 15 of this title to the contrary, the maximum
2 administrative penalty issued by the Secretary under this section shall not
3 exceed \$5,000.00 for each violation, and the maximum amount of any
4 administrative penalty assessed for separate and distinct violations of this
5 chapter shall not exceed \$50,000.00.

6 (b) A person may request that the Secretary hold a hearing on a cease and
7 desist order or an emergency order issued under this section within five days of
8 receipt of the order. Upon receipt of a request for a hearing, the Secretary
9 promptly shall set a date and time for a hearing. A request for a hearing on a
10 cease and desist order or emergency order issued under this section shall not
11 stay the order.

12 § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

13 The Secretary may, after due notice and hearing, revoke or condition
14 coverage under a general permit, an individual permit, a small farm
15 certification, or other permit or certification issued under this chapter or rules
16 adopted under this chapter when the person subject to the permit or
17 certification fails to comply with a requirement of this chapter or any term,
18 provision, or requirements of a permit or certification required by this chapter.
19 The Secretary may also seek enforcement remedies and penalties under this
20 subchapter against any person who fails to comply with any term, provision, or
21 requirements of a permit or certification required by this chapter or who

1 violates the terms or conditions of coverage under any general permit, any
2 individual permit, or any certification issued under this chapter.

3 § 4995. CIVIL ENFORCEMENT

4 (a) The Secretary may bring an action in the Civil Division of the Superior
5 Court to enforce the requirements of this chapter, or rules adopted under this
6 chapter, or any permit or certification issued under this chapter, to assure
7 compliance, and to obtain penalties in the amounts described in subsection (b)
8 of this section. The action shall be brought by the Attorney General in the
9 name of the State.

10 (b) The court may grant temporary and permanent injunctive relief,
11 and may:

12 (1) Enjoin future activities.

13 (2) Order corrective actions to be taken to mitigate or curtail any
14 violation and to protect human health or the environment, including the
15 including a requirement that the owner or operator of a farm sell or otherwise
16 remove livestock from the farm or production area when the volume of wastes
17 produced by livestock exceeds the infrastructure capacity of the farm or its
18 production area to manage the waste or waste leachate to prevent runoff or
19 leaching of wastes to waters of the State or groundwater as required by the
20 standards in this chapter.

1 (3) Order the design, construction, installation, operation, or
2 maintenance of facilities designed to mitigate or prevent a violation of this
3 chapter or to protect human health or the environment or designed to assure
4 compliance.

5 (4) Fix and order compensation for any public or private property
6 destroyed or damaged.

7 (5) Revoke coverage under any permit or certification issued under this
8 chapter.

9 (6) Order reimbursement from any person who caused governmental
10 expenditures for the investigation, abatement, mitigation, or removal of a
11 hazard to human health or the environment.

12 (7) Levy a civil penalty as provided in this subdivision. A civil penalty
13 of not more than \$85,000.00 may be imposed for each violation. In addition,
14 in the case of a continuing violation, a penalty of not more than \$42,500.00
15 may be imposed for each day the violation continues. In fixing the amount of
16 the penalty, the court shall apply the criteria set forth in subsections (e) and (f)
17 of this section. The cost of collection of penalties or other monetary awards
18 shall be assessed against and added to a penalty assessed against a respondent.

19 (c)(1) In any civil action brought under this section in which a temporary
20 restraining order or preliminary injunction is sought, relief shall be obtained
21 upon a showing that there is the probability of success on the merits and that:

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1 (A) a violation exists; or

2 (B) a violation is imminent and substantial harm is likely to result.

3 (2) In a civil action brought under this section in which a temporary
4 restraining order or preliminary injunction is sought, the Secretary need not
5 demonstrate immediate and irreparable injury, loss, or damage.

6 (d) Any balancing of the equities in actions under this section may affect
7 the time by which compliance shall be attained, but not the necessity of
8 compliance within a reasonable period of time.

9 (e)(1) In determining the amount of the penalty provided in subsection (b)
10 of this section, the court shall consider the following:

11 (A) the degree of actual or potential impact on public health, safety,
12 welfare, and the environment resulting from the violation;

13 (B) the presence of mitigating circumstances, including unreasonable
14 delay by the Secretary in seeking enforcement;

15 (C) whether the respondent knew or had reason to know the violation
16 existed;

17 (D) the respondent's record of compliance;

18 (E) the deterrent effect of the penalty;

19 (F) the State's actual costs of enforcement; and

20 (G) the length of time the violation has existed.

1 (2) In determining the amount of the penalty provided in subsection (b)
2 of this section, the court may consider additional relevant factors.

3 (f) In addition to any penalty assessed under subsection (b) of this section,
4 the Secretary may also recapture economic benefit resulting from a violation.

5 § 4996. APPEALS; ENFORCEMENT

6 (a) Any person subject, under this subchapter, to an administrative
7 enforcement order, an administrative penalty, or revocation of a permit or
8 certification who is aggrieved by a final decision of the Secretary may appeal
9 to the Superior Court within 30 days of the decision. The administrative judge
10 may specially assign an environmental judge to Superior Court for the purpose
11 of hearing an appeal.

12 (b) If the Secretary issues an emergency order under this chapter, the
13 person subject to the order may request a hearing before the Superior Court.
14 Notice of the request for hearing under this subdivision shall be filed with the
15 Superior Court and the Secretary within five days of receipt of the order. A
16 hearing on the emergency order shall be held at the earliest possible time and
17 shall take precedence over all other hearings. The hearing shall be held within
18 five days of receipt of the notice of the request for hearing. A request for
19 hearing on an emergency order shall not stay the order. The Superior Court
20 shall issue a decision within five days from the conclusion of the hearing, and

1 no later than 30 days from the date the notice of request for hearing was
2 received by the person subject to the order.

3 Sec. 18. 6 V.S.A. § 4812 is amended to read:

4 § 4812. CORRECTIVE ACTIONS

5 ~~(a) When the Secretary of Agriculture, Food and Markets determines that a~~
6 ~~person engaged in farming is managing a farm using practices which are~~
7 ~~inconsistent with the requirements of this chapter or rules adopted under this~~
8 ~~subchapter, the Secretary may issue a written warning which shall be served in~~
9 ~~person or by certified mail, return receipt requested. The warning shall include~~
10 ~~a brief description of the alleged violation, identification of this statute and~~
11 ~~applicable rules, a recommendation for corrective actions that may be taken by~~
12 ~~the person, along with a summary of federal and State assistance programs~~
13 ~~which may be utilized by the person to remedy the violation. The person shall~~
14 ~~have 30 days to respond to the written warning and shall provide an abatement~~
15 ~~schedule for curing the violation and a description of the corrective action to be~~
16 ~~taken to cure the violation. If the person fails to respond to the written warning~~
17 ~~within this period or to take corrective action to change the practices, the~~
18 ~~Secretary may act pursuant to subsection (b) of this section in order to protect~~
19 ~~water quality.~~

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1 ~~(b) The Secretary may:~~

2 ~~(1) issue cease and desist orders and administrative penalties in~~

3 ~~accordance with the requirements of sections 15, 16, and 17 of this title; and~~

4 ~~(2) institute appropriate proceedings on behalf of the Agency to enforce~~
5 ~~this subchapter.~~

6 ~~(c) Whenever the Secretary believes that any person engaged in farming is~~
7 ~~in violation of this subchapter or rules adopted thereunder, an action may be~~
8 ~~brought in the name of the Agency in a court of competent jurisdiction to~~
9 ~~restrain by temporary or permanent injunction the continuation or repetition of~~
10 ~~the violation. The court may issue temporary or permanent injunctions, and~~
11 ~~other relief as may be necessary and appropriate to curtail any violations.~~

12 ~~(d) [Repealed.]~~

13 ~~(e) Any person subject to an enforcement order or an administrative~~
14 ~~penalty who is aggrieved by the final decision of the Secretary may appeal to~~
15 ~~the Superior Court within 30 days of the decision. The administrative judge~~
16 ~~may specially assign an Environmental judge to Superior Court for the purpose~~
17 ~~of hearing an appeal. [Repealed.]~~

18 Sec. 19. 6 V.S.A. § 4854 is amended to read:

19 § 4854. REVOCATION; ENFORCEMENT

20 ~~The secretary may revoke a permit issued under this subchapter after~~
21 ~~following the same process prescribed by section 2705 of this title regarding~~

1 ~~the revocation of a handler’s license. The secretary may also seek enforcement~~
2 ~~remedies under sections 1, 12, 13, 16, and 17 of this title as well as assess an~~
3 ~~administrative penalty under section 15 of this title to any person who fails to~~
4 ~~apply for a permit as required by this subchapter, or who violates the terms or~~
5 ~~conditions of a permit issued under this subchapter. However, notwithstanding~~
6 ~~the provisions of section 15 of this title to the contrary, the maximum~~
7 ~~administrative penalty assessed for a violation of this subchapter shall not~~
8 ~~exceed \$5,000.00 for each violation, and the maximum amount of any penalty~~
9 ~~assessed for separate and distinct violations of this chapter shall not exceed~~
10 ~~\$50,000.00. [Repealed.]~~

11 Sec. 20. 6 V.S.A. § 4860 is amended to read:

12 § 4860. ~~REVOCATION; ENFORCEMENT~~

13 (a) ~~The secretary may revoke coverage under a general permit or an~~
14 ~~individual permit issued under this subchapter after following the same process~~
15 ~~prescribed by section 2705 of this title regarding the revocation of a handler’s~~
16 ~~license. The secretary may also seek enforcement remedies under sections 1,~~
17 ~~11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty~~
18 ~~under section 15 of this title from any person who fails to comply with any~~
19 ~~permit provision as required by this subchapter or who violates the terms or~~
20 ~~conditions of coverage under any general permit or any individual permit~~
21 ~~issued under this subchapter. However, notwithstanding provisions of section~~

1 ~~15 of this title to the contrary, the maximum administrative penalty assessed~~
2 ~~for a violation of this subchapter shall not exceed \$5,000.00 for each violation,~~
3 ~~and the maximum amount of any penalty assessed for separate and distinct~~
4 ~~violations of this chapter shall not exceed \$50,000.00.~~

5 (b) ~~Any person who violates any provision of this subchapter or who fails~~
6 ~~to comply with any order or the terms of any permit issued in accordance with~~
7 ~~this subchapter shall be fined not more than \$10,000.00 for each violation.~~
8 ~~Each violation may be a separate offense and, in the case of a continuing~~
9 ~~violation, each day's continuance may be deemed a separate offense.~~

10 (c) ~~Any person who knowingly makes any false statement, representation,~~
11 ~~or certification in any application, record, report, plan, or other document filed~~
12 ~~or required to be maintained by this subchapter or by any permit, rule,~~
13 ~~regulation, or order issued under this subchapter, or who falsifies, tampers~~
14 ~~with, or knowingly renders inaccurate any monitoring device or method~~
15 ~~required to be maintained by this subchapter or by any permit, rule, regulation,~~
16 ~~or order issued under this subchapter shall upon conviction be punished by a~~
17 ~~fine of not more than \$5,000.00 for each violation. Each violation may be a~~
18 ~~separate offense and, in the case of a continuing violation, each day's~~
19 ~~continuance may be deemed a separate offense. [Repealed.]~~

1 Agriculture, Food and Markets that is consistent with policies adopted by the
2 Secretary of Natural Resources to reduce fluvial erosion hazards.

3 * * *

4 * * * Use Value Appraisal; Compliance with Agricultural Water Quality
5 Requirements * * *

6 Sec. 22. 32 V.S.A. § 3756(i) is amended to read:

7 (i)(1) The Director shall remove from use value appraisal an entire parcel
8 of managed ~~forest land~~ forestland and notify the owner ~~in accordance with the~~
9 ~~procedure in subsection (b) of this section~~ when the ~~Department~~ Commissioner
10 of Forests, Parks and Recreation has not received a management activity report
11 or has received an adverse inspection report, unless the lack of conformance
12 consists solely of the failure to make prescribed planned cutting. In that case,
13 the Director may delay removal from use value appraisal for a period of one
14 year at a time to allow time to bring the parcel into conformance with the plan.

15 (2)(A) The Director shall remove from use value appraisal an entire
16 parcel or parcels of agricultural land and farm buildings identified by the
17 Secretary of Agriculture, Food and Markets as being used by a person:

18 (i) found, after administrative hearing, or contested judicial
19 hearing or motion, to be in violation of water quality requirements established
20 under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification
21 issued under 6 V.S.A. chapter 215; or

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1 (ii) who is not in compliance with the terms of an administrative
2 or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a
3 violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or
4 any permit or certification issued under 6 V.S.A. chapter 215.

5 (B) The Director shall notify the owner that agricultural land or a
6 farm building has been removed from use value appraisal by mailing
7 notification of removal to the owner or operator’s last and usual place of
8 abode. After removal of agricultural land or a farm building from use value
9 appraisal under this section, the Director shall not consider a new application
10 for use value appraisal for the agricultural land or farm building until the
11 Secretary of Agriculture, Food and Markets submits to the Director a
12 certification that the owner or operator of the agricultural land or farm building
13 is complying with the water quality requirements of 6 V.S.A. chapter 215 or an
14 order issued under 6 V.S.A. chapter 215. After submission of a certification by
15 the Secretary of Agriculture, Food and Markets, an owner or operator shall be
16 eligible to apply for enrollment of the agricultural land or farm building
17 according to the requirements of section 3756 of this title.

18 Sec. 23. 32 V.S.A. § 3758 is amended to read:

19 § 3758. APPEALS

20 (a) Whenever the Director denies in whole or in part any application for
21 classification as agricultural land or managed forestland or farm buildings, or

1 grants a different classification than that applied for, or the Director or
 2 assessing officials fix a use value appraisal or determine that previously
 3 classified property is no longer eligible or that the property has undergone a
 4 change in use, the aggrieved owner may appeal the decision of the Director to
 5 the Commissioner within 30 days of the decision, and from there to Superior
 6 Court in the county in which the property is located.

7 * * *

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

12 Sec. 24. 32 V.S.A. § 3752(5) is amended to read:

13 (5) “Development” means, for the purposes of determining whether a
 14 land use change tax is to be assessed under section 3757 of this chapter, the
 15 construction of any building, road, or other structure, or any mining,
 16 excavation, or landfill activity. “Development” also means the subdivision of
 17 a parcel of land into two or more parcels, regardless of whether a change in use
 18 actually occurs, where one or more of the resulting parcels contains less than
 19 25 acres each; but if subdivision is solely the result of a transfer to one or more
 20 of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of
 21 the transferor, or to the surviving spouse of any of the foregoing, then

1 “development” shall not apply to any portion of the newly created parcel or
2 parcels which qualifies for enrollment and for which, within 30 days following
3 the transfer, each transferee or transferor applies for reenrollment in the use
4 value appraisal program. “Development” also means the cutting of timber on
5 property appraised under this chapter at use value in a manner contrary to a
6 forest or conservation management plan as provided for in subsection 3755(b)
7 of this title during the remaining term of the plan, or contrary to the minimum
8 acceptable standards for forest management if the plan has expired; or a
9 change in the parcel or use of the parcel in violation of the conservation
10 management standards established by the Commissioner of Forests, Parks and
11 Recreation. “Development” also means notification of the Director by the
12 Secretary of Agriculture, Food and Markets under section 3756 of this title that
13 the owner or operator of agricultural land or a farm building is violating the
14 water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with
15 the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The
16 term “development” shall not include the construction, reconstruction,
17 structural alteration, relocation, or enlargement of any building, road, or other
18 structure for farming, logging, forestry, or conservation purposes, but shall
19 include the subsequent commencement of a use of that building, road, or
20 structure for other than farming, logging, or forestry purposes.

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1 basin plans. ~~By January 1, 1993, the Secretary shall prepare an overall~~
2 ~~management plan to ensure that the water quality standards are met in all State~~
3 ~~waters. The report shall include a summary of basin planning activities in the~~
4 ~~previous calendar year, a schedule for the production of basin plans in the~~
5 ~~subsequent calendar year, and a summary of actions to be taken over the~~
6 ~~subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of~~
7 ~~required reports) shall not apply to the report to be made under this subsection.~~

8 (2) In developing a basin plan under this subsection, the Secretary shall:

9 (A) identify waters that should be reclassified as class A waters or
10 outstanding resource waters;

11 (B) identify wetlands that should be reclassified as Class I wetlands;

12 (C) identify projects or activities within a basin that will result in the
13 protection and enhancement of water quality;

14 (D) assure that municipal officials, citizens, watershed groups, and
15 other interested groups and individuals are involved in the basin planning
16 process;

17 (E) assure regional and local input in State water quality policy
18 development and planning processes;

19 (F) provide education to municipal officials and citizens regarding
20 the basin planning process;

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1 (G) develop, in consultation with the applicable regional planning
2 commission, an analysis and formal recommendation on conformance with the
3 goals and objectives of applicable regional plans;

4 (H) provide for public notice of a draft basin plan; and

5 (I) provide for the opportunity of public comment on a draft basin
6 plan.

7 (3) The Secretary shall, contingent upon the availability of funding,
8 contract with a regional planning commission to assist in or to produce a basin
9 plan under the schedule set forth in subdivision (1) of this subsection. When
10 contracting with a regional planning commission to assist in or produce a basin
11 plan, the Secretary may require the regional planning commission to:

12 (A) conduct any of the activities required under subdivision (2) of
13 this subsection;

14 (B) provide technical assistance and data collection activities to
15 inform municipal officials and the State in making water quality investment
16 decisions;

17 (C) coordinate municipal planning and adoption or implementation of
18 municipal development regulations to better meet State water quality policies
19 and investment priorities;

- 1 (D) assist the Secretary in implementing a project evaluation process
2 to prioritize water quality improvement projects within the region to assure
3 cost effective use of State and federal funds;
- 4 (e) In determining the question of public interest, the Secretary shall give due
5 consideration to, and explain his or her decision with respect to, the following:
- 6 (1) existing and obtainable water qualities;
- 7 (2) existing and potential use of waters for public water supply,
8 recreational, agricultural, industrial, and other legitimate purposes;
- 9 (3) natural sources of pollution;
- 10 (4) public and private pollution sources and the alternative means of
11 abating the same;
- 12 (5) consistency with the State water quality policy established in
13 10 V.S.A. § 1250;
- 14 (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
- 15 (7) need for and use of minimum streamflow requirements;
- 16 (8) federal requirements for classification and management of waters;
- 17 (9) consistency with applicable municipal, regional, and State plans; and
- 18 (10) any other factors relevant to determine the maximum beneficial use
19 and enjoyment of waters.

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1 (f) Notwithstanding the provisions of subsection (c) of this section, when
2 reclassifying waters to Class A, the Secretary need find only that the
3 reclassification is in the public interest.

4 (g) The Secretary under the reclassification rule may grant permits for only
5 a portion of the assimilative capacity of the receiving waters, or may permit
6 only indirect discharges from on-site disposal systems, or both.

7 Sec. 26. 24 V.S.A. § 4302 is amended to read:

8 § 4302. PURPOSE; GOALS

9 * * *

10 (b) It is also the intent of the Legislature that municipalities, regional
11 planning commissions, and State agencies shall engage in a continuing
12 planning process that will further the following goals:

13 * * *

14 (c) In addition, this chapter shall be used to further the following specific
15 goals:

16 * * *

17 (6) To maintain and improve the quality of air, water, wildlife, and land
18 resources.

19 (A) Vermont's air, water, wildlife, mineral and land resources should
20 be planned for use and development according to the principles set forth in
21 10 V.S.A. § 6086(a).

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1 requirements of the federal Clean Water Act. . The Secretary of Natural
 2 Resources shall apply the antidegradation implementation policy to all new
 3 discharges that require a permit under this chapter and to the initial issuance of
 4 a permit or coverage under a general permit to a farm under 6 V.S.A. chapter
 5 215. ~~On or before July 1, 2008, a final proposal of the rules for an~~
 6 ~~implementation process for the antidegradation policy shall be filed with the~~
 7 ~~Secretary of State under 3 V.S.A. § 841.~~

* * * Stormwater Management * * *

9 Sec. 30. 10 V.S.A. § 1264 is amended to read:

10 § 1264. STORMWATER MANAGEMENT

11 ~~(a) The General Assembly finds that the management of stormwater runoff~~
 12 ~~is necessary to reduce stream channel instability, pollution, siltation,~~
 13 ~~sedimentation, and local flooding, all of which have adverse impacts on the~~
 14 ~~water and land resources of the State. The General Assembly intends, by~~
 15 ~~enactment of this section, to reduce the adverse effects of stormwater runoff.~~
 16 ~~The General Assembly determines that this intent may best be attained by a~~
 17 ~~process that: assures broad participation; focuses upon the prevention of~~
 18 ~~pollution; relies on structural treatment only when necessary; establishes and~~
 19 ~~maintains accountability; tailors strategies to the region and the locale; assures~~
 20 ~~an adequate funding source; builds broadbased programs; provides for the~~
 21 ~~evaluation and appropriate evolution of programs; is consistent with the federal~~

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1 ~~Clean Water Act and the State water quality standards; and accords appropriate~~
2 ~~recognition to the importance of community benefits that accompany an~~
3 ~~effective stormwater runoff management program. In furtherance of these~~
4 ~~purposes, the Secretary shall implement two stormwater permitting programs.~~
5 ~~The first program is based on the requirements of the federal National~~
6 ~~Pollutant Discharge Elimination System (NPDES) permit program in~~
7 ~~accordance with section 1258 of this title. The second program is a State~~
8 ~~permit program based on the requirements of this section for the discharge of~~
9 ~~“regulated stormwater runoff” as that term is defined in subdivision (11) of this~~
10 ~~subsection. As used in this section:~~

11 (1) ~~“2002 Stormwater Management Manual” means the Agency of~~
12 ~~Natural Resources’ Stormwater Management Manual dated April 2002, as~~
13 ~~amended from time to time by rule.~~

14 (2) ~~“Best management practice” (BMP) means a schedule of activities,~~
15 ~~prohibitions of practices, maintenance procedures, and other management~~
16 ~~practices to prevent or reduce water pollution.~~

17 (3) ~~“Development” means the construction of impervious surface on a~~
18 ~~tract or tracts of land where no impervious surface previously existed.~~

19 (4) ~~“Existing stormwater discharge” means a discharge of regulated~~
20 ~~stormwater runoff which first occurred prior to June 1, 2002 and that is subject~~
21 ~~to the permitting requirements of this chapter.~~

1 (5) ~~“Expansion” and “the expanded portion of an existing discharge”~~
2 ~~mean an increase or addition of impervious surface, such that the total resulting~~
3 ~~impervious area is greater than the minimum regulatory threshold. Expansion~~
4 ~~does not mean an increase or addition of impervious surface of less than 5,000~~
5 ~~square feet.~~

6 (6) ~~“Impervious surface” means those manmade surfaces, including~~
7 ~~paved and unpaved roads, parking areas, roofs, driveways, and walkways, from~~
8 ~~which precipitation runs off rather than infiltrates.~~

9 (7) ~~“New stormwater discharge” means a new or expanded discharge of~~
10 ~~regulated stormwater runoff, subject to the permitting requirements of this~~
11 ~~chapter, which first occurs after June 1, 2002 and has not been previously~~
12 ~~authorized pursuant to this chapter.~~

13 (8) ~~“Offset” means a State permitted or approved action or project~~
14 ~~within a stormwater impaired water that a discharger or a third person may~~
15 ~~complete to mitigate the impacts that a discharge of regulated stormwater~~
16 ~~runoff has on the stormwater impaired water.~~

17 (9) ~~“Offset charge” means the amount of sediment load or hydrologic~~
18 ~~impact that an offset must reduce or control in the stormwater impaired water~~
19 ~~in which the offset is located.~~

20 (10) ~~“Redevelopment” means the construction or reconstruction of an~~
21 ~~impervious surface where an impervious surface already exists when such new~~

1 ~~construction involves substantial site grading, substantial subsurface~~
2 ~~excavation, or substantial modification of existing stormwater conveyance,~~
3 ~~such that the total of impervious surface to be constructed or reconstructed is~~
4 ~~greater than the minimum regulatory threshold. Redevelopment does not mean~~
5 ~~the construction or reconstruction of impervious surface where impervious~~
6 ~~surface already exists when the construction or reconstruction involves less~~
7 ~~than 5,000 square feet. Redevelopment does not mean public road~~
8 ~~management activities, including any crack sealing, patching, coldplaning,~~
9 ~~resurfacing, reclaiming, or grading treatments used to maintain pavement,~~
10 ~~bridges, and unpaved roads.~~

11 ~~(11) “Regulated stormwater runoff” means precipitation, snowmelt, and~~
12 ~~the material dissolved or suspended in precipitation and snowmelt that runs off~~
13 ~~impervious surfaces and discharges into surface waters or into groundwater via~~
14 ~~infiltration.~~

15 ~~(12) “Stormwater impact fee” means the monetary charge assessed to a~~
16 ~~permit applicant for the discharge of regulated stormwater runoff to a~~
17 ~~stormwater-impaired water that mitigates a sediment load level or hydrologic~~
18 ~~impact that the discharger is unable to control through on-site treatment or~~
19 ~~completion of an offset on a site owned or controlled by the permit applicant.~~

1 ~~(13) “Stormwater impaired water” means a State water that the~~
2 ~~Secretary determines is significantly impaired by discharges of regulated~~
3 ~~stormwater runoff.~~

4 ~~(14) “Stormwater runoff” means precipitation and snowmelt that does~~
5 ~~not infiltrate into the soil, including material dissolved or suspended in it, but~~
6 ~~does not include discharges from undisturbed natural terrain or wastes from~~
7 ~~combined sewer overflows.~~

8 ~~(15) “Total maximum daily load” (TMDL) means the calculations and~~
9 ~~plan for meeting water quality standards approved by the U.S. Environmental~~
10 ~~Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and~~
11 ~~federal regulations adopted under that law.~~

12 ~~(16) “Water quality remediation plan” means a plan, other than a TMDL~~
13 ~~or sediment load allocation, designed to bring an impaired water body into~~
14 ~~compliance with applicable water quality standards in accordance with 40~~
15 ~~C.F.R. § 130.7(b)(1)(ii) and (iii).~~

16 ~~(17) “Watershed improvement permit” means a general permit specific~~
17 ~~to a stormwater impaired water that is designed to apply management~~
18 ~~strategies to existing and new discharges and that includes a schedule of~~
19 ~~compliance no longer than five years reasonably designed to assure attainment~~
20 ~~of the Vermont water quality standards in the receiving waters.~~

1 ~~(18) “Stormwater system” means the storm sewers; outfall sewers;~~
2 ~~surface drains; manmade wetlands; channels; ditches; wet and dry bottom~~
3 ~~basins; rain gardens; and other control equipment necessary and appurtenant to~~
4 ~~the collection, transportation, conveyance, pumping, treatment, disposal, and~~
5 ~~discharge of regulated stormwater runoff.~~

6 ~~(19) “Net zero standard” means:~~

7 ~~(A) A new discharge or the expanded portion of an existing discharge~~
8 ~~meets the requirements of the 2002 Stormwater Management Manual and does~~
9 ~~not increase the sediment load in the receiving stormwater impaired water; or~~

10 ~~(B) A discharge from redevelopment; from an existing discharge~~
11 ~~operating under an expired stormwater discharge permit where the property~~
12 ~~owner applies for a new permit; or from any combination of development,~~
13 ~~redevelopment, and expansion meets on site the water quality, recharge, and~~
14 ~~channel protection criteria set forth in Table 1.1 of the 2002 Stormwater~~
15 ~~Management Manual that are determined to be technically feasible by an~~
16 ~~engineering feasibility analysis conducted by the Agency and if the sediment~~
17 ~~load from the discharge approximates the natural runoff from an undeveloped~~
18 ~~field or open meadow that is not used for agricultural activity.~~

19 ~~(b) The Secretary shall prepare a plan for the management of collected~~
20 ~~stormwater runoff found by the Secretary to be deleterious to receiving waters.~~

21 ~~The plan shall recognize that the runoff of stormwater is different from the~~

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1 discharge of sanitary and industrial wastes because of the influence of natural
2 events of stormwater runoff, the variations in characteristics of those runoffs,
3 and the increased stream flows and natural degradation of the receiving water
4 quality at the time of discharge. The plan shall be cost effective and designed
5 to minimize any adverse impact of stormwater runoff to waters of the State.
6 By no later than February 1, 2001, the Secretary shall prepare an enhanced
7 stormwater management program and report on the content of that program to
8 the House Committees on Fish, Wildlife and Water Resources and on Natural
9 Resources and Energy and to the Senate Committee on Natural Resources and
10 Energy. In developing the program, the Secretary shall consult with the Board,
11 affected municipalities, regional entities, other State and federal agencies, and
12 members of the public. The Secretary shall be responsible for implementation
13 of the program. The Secretary's stormwater management program shall
14 include, at a minimum, provisions that:

15 (1) Indicate that the primary goals of the State program will be to assure
16 compliance with the Vermont Water Quality Standards and to maintain after
17 development, as nearly as possible, the predevelopment runoff characteristics.

18 (2) Allow for differences in hydrologic characteristics in different parts
19 of the State.

20 (3) Incorporate stormwater management into the basin planning process
21 conducted under section 1253 of this title.

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1 ~~(4) Assure consistency with applicable requirements of the federal Clean~~
2 ~~Water Act.~~

3 ~~(5) Address stormwater management in new development and~~
4 ~~redevelopment.~~

5 ~~(6) Control stormwater runoff from construction sites and other land~~
6 ~~disturbing activities.~~

7 ~~(7) Indicate that water quality mitigation practices may be required for~~
8 ~~any redevelopment of previously developed sites, even when~~
9 ~~preredevelopment runoff characteristics are proposed to be maintained.~~

10 ~~(8) Specify minimum requirements for inspection and maintenance of~~
11 ~~stormwater management practices.~~

12 ~~(9) Promote detection and elimination of improper or illegal connections~~
13 ~~and discharges.~~

14 ~~(10) Promote implementation of pollution prevention during the conduct~~
15 ~~of municipal operations.~~

16 ~~(11) Provide for a design manual that includes technical guidance for the~~
17 ~~management of stormwater runoff.~~

18 ~~(12) Encourage municipal governments to utilize existing regulatory and~~
19 ~~planning authority to implement improved stormwater management by~~
20 ~~providing technical assistance, training, research and coordination with respect~~

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1 ~~to stormwater management technology, and by preparing and distributing a~~
2 ~~model local stormwater management ordinance.~~

3 ~~(13) Promote public education and participation among citizens and~~
4 ~~municipalities about cost-effective and innovative measures to reduce~~
5 ~~stormwater discharges to the waters of the State.~~

6 ~~(c) The Secretary shall submit the program report to the House Committees~~
7 ~~on Agriculture and Forest Products, on Transportation, and on Natural~~
8 ~~Resources and Energy and to the Senate Committees on Agriculture and on~~
9 ~~Natural Resources and Energy.~~

10 ~~(d)(1) The Secretary shall initiate rulemaking by October 15, 2004, and~~
11 ~~shall adopt a rule for a stormwater management program by June 15, 2005.~~
12 ~~The rule shall be adopted in accordance with 3 V.S.A. chapter 25 and shall~~
13 ~~include:~~

14 ~~(A) the regulatory elements of the program identified in subsection~~
15 ~~(b) of this section, including the development and use of offsets and the~~
16 ~~establishment and imposition of stormwater impact fees to apply when issuing~~
17 ~~permits that allow regulated stormwater runoff to stormwater-impaired waters;~~

18 ~~(B) requirements concerning the contents of permit applications that~~
19 ~~include, at a minimum, for regulated stormwater runoff, the permit application~~
20 ~~requirements contained in the Agency's 1997 stormwater management~~
21 ~~procedures;~~

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1 ~~(C) a system of notifying interested persons in a timely way of the~~
2 ~~Agency's receipt of stormwater discharge applications, provided any alleged~~
3 ~~failures with respect to such notice shall not be relevant in any Agency permit~~
4 ~~decision or any appeals brought pursuant to section 1269 of this chapter;~~

5 ~~(D) requirements concerning a permit for discharges of regulated~~
6 ~~stormwater runoff from the development, redevelopment, or expansion of~~
7 ~~impervious surfaces equal to or greater than one acre or any combination of~~
8 ~~development, redevelopment, and expansion of impervious surfaces equal to or~~
9 ~~greater than one acre; and~~

10 ~~(E) requirements concerning a permit for discharges of regulated~~
11 ~~stormwater runoff from an impervious surface of any size to~~
12 ~~stormwater impaired waters if the Secretary determines that treatment is~~
13 ~~necessary to reduce the adverse impact of such stormwater discharges due to~~
14 ~~the size of the impervious surface, drainage patterns, hydraulic connectivity,~~
15 ~~existing stormwater treatment, or other factors identified by the Secretary.~~

16 ~~(2) Notwithstanding 3 V.S.A. § 840(a), the Secretary shall hold at least~~
17 ~~three public hearings in different areas of the State regarding the proposed rule.~~

18 ~~(e)(1) Except as otherwise may be provided in subsection (f) of this~~
19 ~~section, the Secretary shall, for new stormwater discharges, require a permit~~
20 ~~for discharge of, regulated stormwater runoff consistent with, at a minimum,~~
21 ~~the 2002 Stormwater Management Manual. The Secretary may issue,~~

1 ~~condition, modify, revoke, or deny discharge permits for regulated stormwater~~
2 ~~runoff, as necessary to assure achievement of the goals of the program and~~
3 ~~compliance with State law and the federal Clean Water Act. The permit shall~~
4 ~~specify the use of best management practices to control regulated stormwater~~
5 ~~runoff. The permit shall require as a condition of approval, proper operation,~~
6 ~~and maintenance of any stormwater management facility and submittal by the~~
7 ~~permittee of an annual inspection report on the operation, maintenance and~~
8 ~~condition of the stormwater management system. The permit shall contain~~
9 ~~additional conditions, requirements, and restrictions as the Secretary deems~~
10 ~~necessary to achieve and maintain compliance with the water quality standards,~~
11 ~~including requirements concerning recording, reporting, and monitoring the~~
12 ~~effects on receiving waters due to operation and maintenance of stormwater~~
13 ~~management facilities.~~

14 ~~(2) As one of the principal means of administering an enhanced~~
15 ~~stormwater program, the Secretary may issue and enforce general permits. To~~
16 ~~the extent appropriate, such permits shall include the use of certifications of~~
17 ~~compliance by licensed professional engineers practicing within the scope of~~
18 ~~their engineering specialty. The Secretary may issue general permits for~~
19 ~~classes of regulated stormwater runoff permittees and may specify the period~~
20 ~~of time for which the permit is valid other than that specified in subdivision~~
21 ~~1263(d)(4) of this title when such is consistent with the provisions of this~~

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1 ~~section. General permits shall be adopted and administered in accordance with~~
2 ~~the provisions of subsection 1263(b) of this title. No permit is required under~~
3 ~~this section for:~~

4 ~~(A) Stormwater runoff from farms subject to accepted agricultural~~
5 ~~practices adopted by the Secretary of Agriculture, Food and Markets;~~

6 ~~(B) Stormwater runoff from concentrated animal feeding operations~~
7 ~~that require a permit under subsection 1263(g) of this chapter; or~~

8 ~~(C) Stormwater runoff from silvicultural activities subject to accepted~~
9 ~~management practices adopted by the Commissioner of Forests, Parks and~~
10 ~~Recreation.~~

11 ~~(3) Prior to issuing a permit under this subsection, the Secretary shall~~
12 ~~review the permit applicant's history of compliance with the requirements of~~
13 ~~this chapter. The Secretary may, at his or her discretion and as necessary to~~
14 ~~assure achievement of the goals of the program and compliance with State law~~
15 ~~and the federal Clean Water Act, deny an application for the discharge of~~
16 ~~regulated stormwater under this subsection if review of the applicant's~~
17 ~~compliance history indicates that the applicant is discharging regulated~~
18 ~~stormwater in violation of this chapter or is the holder of an expired permit for~~
19 ~~an existing discharge of regulated stormwater.~~

20 ~~(f)(1) In a stormwater impaired water, the Secretary may issue:~~

1 ~~(A) An individual permit in a stormwater impaired water for which~~
2 ~~no TMDL, water quality remediation plan, or watershed improvement permit~~
3 ~~has been established or issued, provided that the permitted discharge meets the~~
4 ~~following discharge standard: prior to the issuance of a general permit to~~
5 ~~implement a TMDL or a water quality remediation plan, the discharge meets~~
6 ~~the net zero standard;~~

7 ~~(B) An individual permit or a general permit to implement a TMDL~~
8 ~~or water quality remediation plan in a stormwater impaired water, provided~~
9 ~~that the permitted discharge meets the following discharge standard:~~

10 ~~(i) a new stormwater discharge or the expansion of an existing~~
11 ~~discharge shall meet the treatment standards for new development and~~
12 ~~expansion in the 2002 Stormwater Management Manual and any additional~~
13 ~~requirements deemed necessary by the Secretary to implement the TMDL or~~
14 ~~water quality remediation plan;~~

15 ~~(ii) for a discharge of regulated stormwater runoff from~~
16 ~~redeveloped impervious surfaces:~~

17 ~~(I) the existing impervious surface shall be reduced by 20~~
18 ~~percent, or a stormwater treatment practice shall be designed to capture and~~
19 ~~treat 20 percent of the water quality volume treatment standard of the 2002~~
20 ~~Stormwater Management Manual from the existing impervious surface; and~~

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1 ~~(ii) any additional requirements deemed necessary by the~~
2 Secretary to implement the TMDL or the water quality remediation plan;

3 ~~(iii) an existing stormwater discharge shall meet the treatment~~
4 standards deemed necessary by the Secretary to implement a TMDL or a water
5 quality remediation plan;

6 ~~(iv) if a permit is required for an expansion of an existing~~
7 impervious surface or for the redevelopment of an existing impervious surface,
8 discharges from the expansion or from the redeveloped portion of the existing
9 impervious surface shall meet the relevant treatment standard of the 2002
10 Stormwater Management Manual, and the existing impervious surface shall
11 meet the treatment standards deemed necessary by the Secretary to implement
12 a TMDL or the water quality remediation plan;

13 ~~(C) A watershed improvement permit, provided that the watershed~~
14 improvement permit provides reasonable assurance of compliance with the
15 Vermont water quality standards in five years;

16 ~~(D) A general or individual permit that is implementing a TMDL or~~
17 water quality remediation plan; or

18 ~~(E) A statewide general permit for new discharges that the Secretary~~
19 deems necessary to assure attainment of the Vermont Water Quality Standards.

20 ~~(2) An authorization to discharge regulated stormwater runoff pursuant~~
21 to a permit issued under this subsection shall be valid for a time period not to

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1 exceed five years. A person seeking to discharge regulated stormwater runoff
2 after the expiration of that period shall obtain an individual permit or coverage
3 under a general permit, whichever is applicable, in accordance with subsection
4 1263(e) of this title.

5 (3) By January 15, 2010, the Secretary shall issue a watershed
6 improvement permit, issue a general or individual permit implementing a
7 TMDL approved by the EPA, or issue a general or individual permit
8 implementing a water quality remediation plan for each of the
9 stormwater impaired waters on the Vermont Year 2004 Section 303(d) List of
10 Waters required by 33 U.S.C. 1313(d). In developing a TMDL or a water
11 quality remediation plan for a stormwater impaired water, the Secretary shall
12 consult “A Scientifically Based Assessment and Adaptive Management
13 Approach to Stormwater Management” and “Areas of Agreement about the
14 Scientific Underpinnings of the Water Resources Board’s Original Seven
15 Questions” set out in appendices A and B, respectively, of the final report of
16 the Water Resources Board’s “Investigation Into Developing Cleanup Plans
17 For Stormwater Impaired Waters, Docket No. Inv-03-01,” issued March 9,
18 2004.

19 (4) Discharge permits issued under this subsection shall require BMP-
20 based stormwater treatment practices. Permit compliance shall be judged on
21 the basis of performance of the terms and conditions of the discharge permit,

1 including construction and maintenance in accordance with BMP
2 specifications. Any permit issued for a new stormwater discharge or for the
3 expanded portion of an existing discharge pursuant to this subsection shall
4 require compliance with BMPs for stormwater collection and treatment
5 established by the 2002 Stormwater Management Manual, and any additional
6 requirements for stormwater treatment and control systems as the Secretary
7 determines to be necessary to ensure that the permitted discharge does not
8 cause or contribute to a violation of the Vermont Water Quality Standards.

9 (5) In addition to any permit condition otherwise authorized under
10 subsection (e) of this section, in any permit issued pursuant to this subsection,
11 the Secretary may require an offset or stormwater impact fee as necessary to
12 ensure the discharge does not cause or contribute to a violation of the Vermont
13 Water Quality Standards. Offsets and stormwater impact fees, where utilized,
14 shall incorporate an appropriate margin of safety to account for the variability
15 in quantifying the load of pollutants of concern. To facilitate utilization of
16 offsets and stormwater impact fees, the Secretary shall identify by January 1,
17 2005 a list of potential offsets in each of the waters listed as a
18 stormwater impaired water under this subsection.

19 (g)(1) The Secretary may issue a permit consistent with the requirements of
20 subsection (f) of this section, even where a TMDL or wasteload allocation has
21 not been prepared for the receiving water. In any appeal under this chapter an

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1 individual permit meeting the requirements of subsection (f) of this section
2 shall have a rebuttable presumption in favor of the permittee that the discharge
3 does not cause or contribute to a violation of the Vermont Water Quality
4 Standards for the receiving waters with respect to the discharge of regulated
5 stormwater runoff. This rebuttable presumption shall only apply to permitted
6 discharges into receiving waters that are principally impaired by sources other
7 than regulated stormwater runoff.

8 (2) This subsection shall apply to stormwater permits issued under the
9 federally delegated NPDES program only to the extent allowed under federal
10 law.

11 (h) The rebuttable presumption specified in subdivision (g)(1) of this
12 section shall also apply to permitted discharges into receiving waters that meet
13 the water quality standards of the State, provided the discharge meets the
14 requirements of subsection (e) of this section.

15 (i) A residential subdivision may transfer a pretransition stormwater
16 discharge permit or a stormwater discharge permit implementing a total
17 maximum daily load plan to a municipality, provided that the municipality
18 assumes responsibility for the permitting of the stormwater system that serves
19 the residential subdivision. As used in this section:

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1 ~~(1) “Pretransition stormwater discharge permit” means any permit~~
2 ~~issued by the Secretary of Natural Resources pursuant to this section on or~~
3 ~~before June 30, 2004 for a discharge of stormwater.~~

4 ~~(2) “Residential subdivision” means land identified and demarcated by~~
5 ~~recorded plat or other device that a municipality has authorized to be used~~
6 ~~primarily for residential construction.~~

7 ~~(j) Notwithstanding any other provision of law, if an application to~~
8 ~~discharge stormwater runoff pertains to a telecommunications facility as~~
9 ~~defined in 30 V.S.A. § 248a and is filed before July 1, 2017 and the discharge~~
10 ~~will be to a water that is not principally impaired by stormwater runoff:~~

11 ~~(1) The Secretary shall issue a decision on the application within 40~~
12 ~~days of the date the Secretary determines the application to be complete, if the~~
13 ~~application seeks authorization under a general permit.~~

14 ~~(2) The Secretary shall issue a decision on the application within 60~~
15 ~~days of the date the Secretary determines the application to be complete, if the~~
16 ~~application seeks or requires authorization under an individual permit.~~

17 ~~(k) The Secretary may adopt rules regulating stormwater discharges and~~
18 ~~stormwater infrastructure repair or maintenance during a state of emergency~~
19 ~~declared under 20 V.S.A. chapter 1 or during flooding or other emergency~~
20 ~~conditions that pose an imminent risk to life or a risk of damage to public or~~
21 ~~private property. Any rule adopted under this subsection shall comply with~~

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1 National Flood Insurance Program requirements. A rule adopted under this
2 subsection shall include a requirement that an activity receive an individual
3 stormwater discharge emergency permit or receive coverage under a general
4 stormwater discharge emergency permit.

5 (1) A rule adopted under this subsection shall establish:

6 (A) criteria for coverage under an individual or general emergency
7 permit;

8 (B) criteria for different categories of activities covered under a
9 general emergency permit;

10 (C) requirements for public notification of permitted activities,
11 including notification after initiation or completion of a permitted activity;

12 (D) requirements for coordination with State and municipal
13 authorities;

14 (E) requirements that the Secretary document permitted activity,
15 including, at a minimum, requirements for documenting permit terms,
16 documenting permit duration, and documenting the nature of an activity when
17 the rules authorize notification of the Secretary after initiation or completion of
18 the activity.

19 (2) A rule adopted under this section may:

20 (A) establish reporting requirements for categories of activities;

1 ~~(B) authorize an activity that does not require reporting to the~~
2 Secretary; or

3 ~~(C) authorize an activity that requires reporting to the Secretary after~~
4 initiation or completion of an activity.

5 (a) Findings and intent.

6 (1) Findings. The General Assembly finds that the management of
7 stormwater runoff is necessary to reduce stream channel instability, pollution,
8 siltation, sedimentation, and flooding, all of which have adverse impacts on the
9 water and land resources of the State.

10 (2) Intent. The General Assembly intends, by enactment of this
11 section to:

12 (A) Reduce the adverse effects of stormwater runoff.

13 (B) Direct the Agency of Natural Resources to develop a process that
14 assures broad participation; focuses upon the prevention of pollution; relies on
15 structural treatment only when necessary; establishes and maintains
16 accountability; tailors strategies to the region and the locale; builds
17 broad-based programs; provides for the evaluation and appropriate evolution of
18 programs; is consistent with the federal Clean Water Act and the State water
19 quality standards; and accords appropriate recognition to the importance of
20 community benefits that accompany an effective stormwater runoff
21 management program. In furtherance of these purposes, the Secretary shall

1 implement a stormwater permitting program. The stormwater permitting
2 program developed by the Secretary shall recognize that stormwater runoff is
3 different from the discharge of sanitary and industrial wastes because of the
4 influence of natural events of stormwater runoff, the variations in
5 characteristics of those runoffs, and the increased stream flows causing
6 degradation of the quality of the receiving water at the time of discharge.

7 (b) Definitions. As used in this section:

8 (1) “Best management practice” (BMP) means a schedule of activities,
9 prohibitions or practices, maintenance procedures, green infrastructure, and
10 other management practices to prevent or reduce water pollution.

11 (2) “Development” means the construction of impervious surface on a
12 tract or tracts of land where no impervious surface previously existed.

13 (3) “Expansion” and “the expanded portion of an existing discharge”
14 mean an increase or addition of impervious surface, such that the total resulting
15 impervious area is greater than the minimum regulatory threshold.

16 (4) Green infrastructure means a wide range of multi-functional, natural
17 and semi-natural landscape elements that are located within, around, and
18 between developed areas, that are applicable at all spatial scales, and that are
19 designed to control or collect stormwater runoff.

1 (5) “Healthy soil” means soil that has a well-developed, porous
2 structure, is chemically balanced, supports diverse microbial communities, and
3 has abundant organic matter.

4 (6) “Impervious surface” means those manmade surfaces, including
5 paved and unpaved roads, parking areas, roofs, driveways, and walkways, from
6 which precipitation runs off rather than infiltrates.

7 (7) “New stormwater discharge” means a new or expanded discharge of
8 regulated stormwater runoff, subject to the permitting requirements of this
9 chapter that has not been previously authorized pursuant to this chapter.

10 (8) “Offset” means a State-permitted or -approved action or project
11 within a stormwater-impaired water, Lake Champlain, or a water that
12 contributes to the impairment of Lake Champlain that a discharger or a third
13 person may complete to mitigate the impacts that a discharge of regulated
14 stormwater runoff has on the stormwater-impaired water, or the impacts of
15 phosphorus on Lake Champlain, or a water that contributes to the impairment
16 of Lake Champlain.

17 (9) “Redevelopment” or “redevelop” means the construction or
18 reconstruction of an impervious surface where an impervious surface already
19 exists when such new construction involves substantial site grading, substantial
20 subsurface excavation, or substantial modification of an existing stormwater
21 conveyance, such that the total of impervious surface to be constructed or

1 reconstructed is greater than the minimum regulatory threshold.

2 Redevelopment does not mean public road management activities, including
3 any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading
4 treatments used to maintain pavement, bridges, and unpaved roads.

5 (10) “Regulated stormwater runoff” means precipitation, snowmelt, and
6 the material dissolved or suspended in precipitation and snowmelt that runs off
7 impervious surfaces and discharges into surface waters or into groundwater via
8 infiltration.

9 (11) “Stormwater impact fee” means the monetary charge assessed to a
10 permit applicant for the discharge of regulated stormwater runoff to a
11 stormwater-impaired water or for the discharge of phosphorus to Lake
12 Champlain or a water that contributes to the impairment of Lake Champlain in
13 order to mitigate a sediment load level, hydrologic impact, or other impact that
14 the discharger is unable to control through on-site treatment or completion of
15 an offset on a site owned or controlled by the permit applicant.

16 (12) “Stormwater-impaired water” means a State water that the
17 Secretary determines is significantly impaired by discharges of regulated
18 stormwater runoff.

19 (13) “Stormwater Management Manual” means the Agency of Natural
20 Resources’ Stormwater Management Manual, as adopted and amended by rule.

1 (14) “Stormwater runoff” means precipitation and snowmelt that does
2 not infiltrate into the soil, including material dissolved or suspended in it, but
3 does not include discharges from undisturbed natural terrain or wastes from
4 combined sewer overflows.

5 (15) “Stormwater system” includes the storm sewers; outfall sewers;
6 surface drains; manmade wetlands; channels; ditches; wet and dry bottom
7 basins; rain gardens; and other control equipment necessary and appurtenant to
8 the collection, transportation, conveyance, pumping, treatment, disposal, and
9 discharge of regulated stormwater runoff.

10 (16) “Total maximum daily load” (TMDL) means the calculations and
11 plan for meeting water quality standards approved by the U.S. Environmental
12 Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and
13 federal regulations adopted under that law.

14 (17) “Water quality remediation plan” means a plan, other than a
15 TMDL, designed to bring an impaired water body into compliance with
16 applicable water quality standards in accordance with 40 C.F.R.
17 § 130.7(b)(1)(ii) and (iii).

18 (18) “Watershed improvement permit” means a general permit specific
19 to a stormwater-impaired water that is designed to apply management
20 strategies to existing and new discharges and that includes a schedule of

1 compliance no longer than five years reasonably designed to assure attainment
2 of the Vermont water quality standards in the receiving waters.

3 (c) Prohibitions.

4 (1) A person shall not commence the construction or redevelopment of
5 one acre or more of impervious surface without first obtaining a permit from
6 the Secretary.

7 (2) A person shall not discharge from a facility that has a standard
8 industrial classification identified in 40 C.F.R. § 122.26 without first obtaining
9 a permit from the Secretary.

10 (3) A person that has been designated by the Secretary as requiring
11 coverage for its municipal separate storm sewer system may not discharge
12 without first obtaining a permit from the Secretary.

13 (4) A person shall not commence a project that will result in an earth
14 disturbance of one acre or greater, or less than one acre if part of a common
15 plan of development, without first obtaining a permit from the Secretary.

16 (5) A person shall not expand existing impervious surface by more than
17 5,000 square feet, such that the total resulting impervious area is greater than
18 one acre, without first obtaining a permit from the Secretary.

19 (6)(A) In accordance with the schedule established under subsection
20 (g)(2) of this section, a municipality shall not discharge stormwater from a
21 municipal road without first obtaining:

1 (i) an individual permit;

2 (ii) coverage under a municipal road general permit; or

3 (iii) coverage under a municipal separate stormsewer system

4 permit that implements the technical standards and criteria established by the

5 Secretary for stormwater improvements of municipal roads.

6 (B) As used in this subdivision, “municipality” means a city, town, or

7 village.

8 (7) In accordance with the schedule established under subsection (g)(3),

9 a person shall not discharge stormwater from impervious surface of three or

10 more acres in size without first obtaining an individual permit or coverage

11 under a general permit issued under this section if the discharge was never

12 previously permitted or was permitted under an individual permit or general

13 permit that did not incorporate the requirements of the 2002 Stormwater

14 Management Manual or any subsequently adopted Stormwater Management

15 Manual.

16 (d) Exemptions.

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

18 (A) Stormwater runoff from farms in compliance with agricultural

19 practices adopted by the Secretary of Agriculture, Food and Markets.

20 (B) Stormwater runoff from concentrated animal feeding operations

21 permitted under subsection 1263(g) of this chapter.

1 (C) Stormwater runoff from silvicultural activities in compliance
2 with the Acceptable Management Practices for Maintaining Water Quality on
3 Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks
4 and Recreation.

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

6 (2) No permit is required under subdivision (c)(1), (5), or (8) of this
7 section and for which a municipality has assumed full legal as part of a permit
8 issued to the municipality by the Secretary. As used in this subdivision, “full
9 legal responsibility” means legal control of the stormwater system, including a
10 legal right to access the stormwater system, a legal duty to properly maintain
11 the stormwater system, and a legal duty to repair and replace the stormwater
12 system when it no longer adequately protects waters of the State.

13 (e) State designation. The Secretary shall require a permit under this
14 section for a discharge or stormwater runoff from any size of impervious
15 surfaces upon a determination by the Secretary that the treatment of the
16 discharge or stormwater runoff is necessary to reduce the adverse impacts to
17 water quality of the discharge or stormwater runoff taking into consideration
18 any of the following factors: the size of the impervious surface, drainage
19 patterns, hydraulic connectivity, existing stormwater treatment, stormwater
20 controls necessary to implement the wasteload allocation of a TMDL, or other
21 factors. The Secretary may make this determination on a case-by-case basis or

1 according to classes of activities, classes of runoff, or classes of discharge.

2 The Secretary may make a determination under this subsection based on

3 activities, runoff, discharges, or other information identified during the basin

4 planning process.

5 (f) Rulemaking. On or before December 31, 2017, the Secretary shall

6 adopt rules to manage regulated stormwater runoff. At a minimum, the rules

7 shall:

8 (1) Establish as the primary goals of the rules:

9 (A) assuring compliance with the Vermont Water Quality

10 Standards; and

11 (B) maintenance after development, as nearly as possible, of the

12 predevelopment runoff characteristics.

13 (2) Establish criteria for the use of the basin planning process to

14 establish watershed-specific priorities for the management of stormwater

15 runoff.

16 (3) Assure consistency with applicable requirements of the federal Clean

17 Water Act.

18 (4) Include technical standards and best management practices that

19 address stormwater discharges from existing development, new development,

20 and redevelopment.

1 (5) Specify minimum requirements for inspection and maintenance of
2 stormwater management practices.

3 (6) Include standards for the management of stormwater runoff from
4 construction sites and other land disturbing activities.

5 (7) Allow municipal governments to assume the full legal responsibility
6 for a stormwater system permitted under these rules as a part of a permit issued
7 by the Secretary.

8 (8) Include standards with respect to the use of offsets and stormwater
9 impact fees.

10 (9) Include minimum standards for the issuance of stormwater permits
11 during emergencies for the repair or maintenance of stormwater infrastructure
12 during a state of emergency declared under 20 V.S.A. chapter 1 or during
13 flooding or other emergency conditions that pose an imminent risk to life or a
14 risk of damage to public or private property. Minimum standards adopted
15 under this subdivision shall comply with National Flood Insurance Program
16 requirements.

17 (10) To the extent appropriate, authorize in the permitting process use of
18 certifications of compliance by licensed professional engineers practicing
19 within the scope of their engineering specialty.

20 (11) Include standards for alternative best management practices for
21 stormwater permitting of renewable energy projects and telecommunication

1 facilities located in high-elevation settings, provided that the alternative best
2 management practices shall be designed to:

3 (A) minimize the extent and footprint of stormwater-treatment
4 practices in order to preserve vegetation and trees;

5 (B) adapt to and minimize impact to ecosystems, shallow soils, and
6 sensitive streams found in high-elevation settings;

7 (C) account for the temporary nature and infrequent use of
8 construction and access roads high-elevation projects; and

9 (D) maintain the predevelopment runoff characteristics, as nearly as
10 possible, after development.

11 (12) Establish best management practices for improving healthy soils in
12 order to improve the capacity of soil to retain water, improve flood resiliency,
13 reduce sedimentation, and prevent stormwater runoff.

14 (g) General permits.

15 (1) The Secretary may issue general permits for classes of regulated
16 stormwater runoff that shall be adopted and administered in accordance with
17 the provisions of subsection 1263(b) of this title.

18 (2)(A) The Secretary shall issue by December 31, 2017, a general permit
19 for discharges of regulated stormwater from municipal roads. Under the
20 municipal roads stormwater general permit, the Secretary shall:

1 (i) Establish a schedule for implementation of the general permit
2 by each municipality in the State. Under the schedule, the Secretary shall
3 establish:

4 (I) the date by which each municipality shall apply for
5 coverage under the municipal roads general permit;

6 (II) the date by which each municipality shall inventory
7 necessary stormwater management projects on municipal roads;

8 (III) the date by which each municipality shall establish a plan
9 for implementation of stormwater improvements that prioritizes stormwater
10 improvements according to criteria established by the Secretary under the
11 general permit; and

12 (IV) the date by which each municipality shall implement
13 stormwater improvements of municipal roads according to a municipal
14 implementation plan.

15 (ii) Establish criteria and technical standards, such as best
16 management practices, for implementation of stormwater improvements of
17 municipal roads.

18 (iii) Establish criteria for municipal prioritization of stormwater
19 improvements of municipal roads. The Secretary shall base the criteria on the
20 water quality impacts of a stormwater discharge, the current state of a
21 municipal road, the priority of a municipal road or stormwater project in any

1 existing transportation capital plan developed by a municipality, and the
2 benefits of the stormwater improvement to the life of the municipal road.

3 (iv) Require each municipality to submit to the Secretary and
4 periodically update its implementation plan for stormwater improvements.

5 (B) The Secretary may require an individual permit for a stormwater
6 improvement at any time under subsection (e) of this section. An individual
7 permit shall include site-specific standards for the stormwater improvement.

8 (C) All municipalities shall apply for coverage under the municipal
9 road general permit by July 1, 2021.

10 (D) As used in this subdivision (g)(2), “municipality” means a city,
11 town, or village.

12 (3) On or before January 1, 2018, the Secretary shall issue a general
13 permit under this section for discharges of stormwater from impervious surface
14 of three or more acres in size, when the stormwater discharge previously was
15 not permitted or was permitted under an individual permit or general permit
16 that did not incorporate the requirements of the 2002 Stormwater Management
17 Manual or any subsequently adopted Stormwater Management Manual. Under
18 the general permit, the Secretary shall:

19 (A) Establish a schedule for implementation of the general permit by
20 geographic area of the State. The schedule shall establish the date by which an
21 owner of impervious surface shall apply for coverage under subdivision (g)(3)

1 of this section. The schedule established by the Secretary shall require an
2 owner of impervious surface subject to permitting under this subdivision to
3 obtain coverage by the following dates:

4 (i) for impervious surface located within the Lake Champlain
5 watershed, no later than October 1, 2023; and

6 (ii) for impervious surface located within all other watersheds of
7 the State, no later than October 1, 2028.

8 (B) Establish criteria and technical standards, such as best
9 management practices, for implementation of stormwater improvements for the
10 retrofitting of impervious surface subject to permitting under this subdivision.

11 (C) Require that a discharge of stormwater from impervious surface
12 subject to the requirements of this section comply with the standards of
13 subsection (h) of this section for redevelopment of or renewal of a permit for
14 existing impervious surface.

15 (D) Allow the use of stormwater impact fees, offsets, and phosphorus
16 credit trading within the watershed of the water to which the stormwater
17 discharges or runs off.

18 (h) Permit requirements. An individual or general stormwater permit shall:

19 (1) Be valid for a period of time not to exceed five years.

1 (2) For discharges of regulated stormwater to a stormwater impaired
2 water, for discharges of phosphorus to Lake Champlain, or for discharges of
3 phosphorus to a water that contributes to the impairment of Lake Champlain:

4 (A) In which no TMDL, watershed improvement permit, or water
5 quality remediation plan has been approved, require that the discharge shall
6 comply with the following discharge standards:

7 (i) A new discharge or the expanded portion of an existing
8 discharge shall satisfy the requirements of the Stormwater Management
9 Manual and shall not increase the pollutant load in the receiving water for
10 stormwater.

11 (ii) For redevelopment of or renewal of a permit for existing
12 impervious surface, the discharge shall satisfy on-site the water quality,
13 recharge, and channel protection criteria set forth in the Stormwater
14 Management Manual that are determined to be technically feasible by an
15 engineering feasibility analysis conducted by the Agency and the discharge
16 shall not increase the pollutant load in the receiving water for stormwater.

17 (B) In which a TMDL or water quality remediation plan has been
18 adopted, require that the discharge shall comply with the following discharge
19 standards:

20 (i) For a new discharge or the expanded portion of an existing
21 discharge, the discharge shall satisfy the requirements of the Stormwater

1 Management Manual, and the Secretary shall determine that there is sufficient
2 pollutant load allocations for the discharge.

3 (ii) For redevelopment of or renewal of a permit for existing
4 impervious surface, the Secretary shall determine that there is sufficient
5 pollutant load allocations for the discharge and the Secretary shall include any
6 requirements that the Secretary deems necessary to implement the TMDL or
7 water quality remediation plan.

8 (3) Contain requirements necessary to comply with the minimum
9 requirements of the rules adopted under this section, the Vermont water quality
10 standards, and any applicable provision of the Clean Water Act.

11 (i) Disclosure of violations. The Secretary may, at his or her discretion and
12 as necessary to assure achievement of the goals of the program and compliance
13 with State law and the federal Clean Water Act, deny an application for the
14 discharge of regulated stormwater under this subsection if review of the
15 applicant's compliance history indicates that the applicant is discharging
16 regulated stormwater in violation of this chapter or is the holder of an expired
17 permit for an existing discharge of regulated stormwater.

18 (j) Presumption. In any appeal under this chapter, an individual permit
19 issued under subdivisions (c)(1) and (c)(5) of this section shall have a
20 rebuttable presumption in favor of the permittee that the discharge does not
21 cause or contribute to a violation of the Vermont Water Quality Standards for

1 the receiving waters with respect to the discharge of regulated stormwater
2 runoff, provided that the discharge is to a water that is not principally impaired
3 due to stormwater.

4 Sec. 31. ANR REPORT ON REGULATORY THRESHOLD FOR
5 PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS
6 SURFACES

7 (a) On or before January 15, 2016, the Secretary of Natural Resources shall
8 submit to the House Committee on Fish, Wildlife and Water Resources and the
9 Senate Committee on Natural Resources and Energy a report regarding
10 whether and how the State should lower from one acre to one-half acre of
11 impervious surface the regulatory permitting threshold for an operating permit
12 for stormwater runoff from new development, redevelopment, or expansion.

13 The report shall include:

14 (1) a recommendation as to whether the State should lower the
15 regulatory permitting threshold from one acre to one-half acre of impervious
16 surface;

17 (2) an estimate of the number of additional development projects that
18 would require an operating permit for stormwater runoff if the regulatory
19 permitting threshold were lowered from one acre to one-half acre of
20 impervious surface;

1 (3) an estimate of the environmental benefit of reducing the regulatory
2 permitting threshold from one acre to one-half acre of impervious surface;

3 (4) an estimate of the number of staff that would be needed by the
4 Agency of Natural Resources to effectively implement a stormwater operating
5 permit program with a regulatory permitting threshold of one-half acre of
6 impervious surface; and

7 (5) a recommendation for regulating construction, redevelopment, or
8 expansion of impervious surface based on a tiered system of acreage, square
9 footage, or other measure.

10 (b) The definitions provided in 10 V.S.A. § 1264 shall apply to this section.

11 Sec. 32. STORMWATER MANAGEMENT PRACTICES HANDBOOK

12 On or before January 1, 2016, the Secretary of Natural Resources shall
13 publish as a handbook a suite of practical and cost-effective best management
14 practices for the control of stormwater runoff and reduction of adverse water
15 quality effects from the construction, redevelopment, or expansion of
16 impervious surface that does not require a permit under 10 V.S.A. § 1264. The
17 best management practices shall address activities that control, mitigate, or
18 eliminate stormwater runoff to waters of the State. The stormwater
19 management practices shall be voluntary and shall not be mandatory.

1 (c) The Secretary shall post all data compiled under this section on the
2 website of the Agency of Natural Resources.

3 * * * Lake Champlain TMDL Implementation Plan* * *

4 Sec. 34. 10 V.S.A. § 1386 is amended to read:

5 § 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN
6 TOTAL MAXIMUM DAILY LOAD PLAN

7 (a) Within ~~42~~ three months after the issuance of a phosphorus total
8 maximum daily load plan (TMDL) for Lake Champlain by the U.S.
9 Environmental Protection Agency, the Secretary of Natural Resources shall
10 ~~issue a Vermont-specific implementation plan for the Lake Champlain TMDL.~~
11 ~~Every four years after issuance of the Lake Champlain TMDL by the U.S.~~
12 ~~Environmental Protection Agency, the Secretary of Natural Resources shall~~
13 ~~amend and update the Vermont-specific implementation plan for the Lake~~
14 ~~Champlain TMDL. Prior to issuing, amending, or updating the implementation~~
15 ~~plan, the Secretary shall consult with the Agency of Agriculture, Food and~~
16 ~~Markets, all statewide environmental organizations that express an interest in~~
17 ~~the plan, the Vermont League of Cities and Towns, all business organizations~~
18 ~~that express an interest in the plan, the University of Vermont Rubenstein~~
19 ~~Ecosystem Science Laboratory, and other interested parties. The~~
20 ~~implementation plan shall include a comprehensive strategy for implementing~~
21 ~~the Lake Champlain TMDL plan and for the remediation of Lake Champlain.~~

1 The implementation plan shall be issued as a document separate from the Lake
2 Champlain TMDL. The implementation plan shall:

3 (1) ~~Include or reference the elements set forth in 40 C.F.R. § 130.6(c)~~
4 ~~for water quality management plans;~~

5 (2) ~~Comply with the requirements of section 1258 of this title and~~
6 ~~administer a permit program to manage discharges to Lake Champlain~~
7 ~~consistent with the federal Clean Water Act;~~

8 (3) ~~Develop a process for identifying critical source areas for non point~~
9 ~~source pollution in each subwatershed. As used in this subdivision, “critical~~
10 ~~source area” means an area in a watershed with high potential for the release,~~
11 ~~discharge, or runoff of phosphorus to the waters of the State;~~

12 (4) ~~Develop site specific plans to reduce point source and non point~~
13 ~~source load discharges in critical source areas identified under subdivision (3)~~
14 ~~of this subsection;~~

15 (5) ~~Develop a method for identifying and prioritizing on public and~~
16 ~~private land pollution control projects with the potential to provide the greatest~~
17 ~~water quality benefits to Lake Champlain;~~

18 (6) ~~Develop a method of accounting for changes in phosphorus loading~~
19 ~~to Lake Champlain due to implementation of the TMDL and other factors;~~

20 (7) ~~Develop phosphorus reduction targets related to phosphorus~~
21 ~~reduction for each water quality program and for each segment of Lake~~

1 ~~Champlain, including benchmarks for phosphorus reduction that shall be~~
2 ~~achieved. The implementation plan shall explain the methodology used to~~
3 ~~develop phosphorus reduction targets under this subdivision;~~

4 ~~(8) Establish a method for the coordination and collaboration of water~~
5 ~~quality programs within the State;~~

6 ~~(9) Develop a method for offering incentives or disincentives to~~
7 ~~wastewater treatment plants for maintaining the 2006 levels of phosphorus~~
8 ~~discharge to Lake Champlain;~~

9 ~~(10) Develop a method of offering incentives or disincentives for~~
10 ~~reducing the phosphorus contribution of stormwater discharges within the Lake~~
11 Champlain basin update the State of Vermont’s phase I TMDL implementation
12 plan to reflect the elements that the State determines are necessary to meet the
13 allocations established in the final TMDL for Lake Champlain. The update of
14 the phase I TMDL implementation plan for Lake Champlain shall explain how
15 basin plans will be used to implement the updated phase I TMDL
16 implementation plan, and shall include a schedule for the adoption of basin
17 plans with the Lake Champlain basin. In addition to the requirements of
18 subsection 1253(d) of this title, a basin plan for a basin within the Lake
19 Champlain basin shall include the following:

1 (1) phosphorus reduction strategies within the basin that will achieve the
2 State’s obligations under the phase I TMDL implementation plan for Lake
3 Champlain;

4 (2) a schedule for the issuance of permits to control phosphorus
5 discharges from wastewater treatment facilities as necessary to implement the
6 State’s obligations under the phase I TMDL implementation plan for Lake
7 Champlain;

8 (3) a schedule for the issuance of permits to control stormwater
9 discharges as necessary to implement the State’s obligations under the phase I
10 TMDL implementation plan for Lake Champlain;

11 (4) wetland and river corridor restoration and protection projects that
12 will achieve the State’s obligations under the phase I TMDL implementation
13 plan for Lake Champlain;

14 (5) a table of non-point source activities that will achieve the State’s
15 obligations under the phase I TMDL implementation plan for Lake
16 Champlain; and

17 (6) other strategies and activities that the Secretary determines to be
18 necessary to achieve the State’s obligations under the phase I TMDL
19 implementation plan for Lake Champlain.

20 ~~(b) In amending the Vermont-specific implementation plan of the Lake~~
21 ~~Champlain TMDL under this section, the Secretary of Natural Resources shall~~

1 ~~comply with the public participation requirements of 40 C.F.R.~~

2 ~~§ 130.7(e)(1)(ii) The Secretary shall develop and implement a method of~~

3 ~~tracking and accounting for actions implemented to achieve the Lake~~

4 ~~Champlain TMDL.~~

5 (c) Prior to finalizing the update to the phase I TMDL implementation plan

6 for Lake Champlain, the Secretary shall provide notice to the public of the

7 proposed revisions and a comment period of no less than 30 days.

8 (d) On or before January 15 in the year following issuance of the updated

9 phase I TMDL implementation plan for Lake Champlain under subsection (a)

10 of this section and every four years thereafter, the Secretary shall report to the

11 House Committee on Fish, Wildlife and Water Resources, the Senate

12 Committee on Natural Resources and Energy, the House Committee on

13 Agriculture and Forest Products, and the Senate Committee on Agriculture

14 regarding the execution of the updated phase I TMDL implementation plan for

15 Lake Champlain. The report shall include:

16 (1) ~~The amendments or revisions to the implementation plan for the~~

17 ~~Lake Champlain TMDL required by subsection (a) of this section. Prior to~~

18 ~~submitting a report required by this subsection that includes amendments to~~

19 ~~revisions to the implementation plan, the Secretary shall hold at least three~~

20 ~~public hearings in the Lake Champlain watershed to describe the amendments~~

21 ~~and revisions to the implementation plan for the Lake Champlain TMDL. The~~

1 Secretary shall ~~prepare a responsiveness summary for each public hearing~~ A
 2 summary of the efforts undertaken to implement the phase I TMDL
 3 implementation plan for Lake Champlain.

4 (2) An assessment of the implementation plan for the Lake Champlain
 5 TMDL based on available data, including an evaluation of the efficacy of the
 6 phase I TMDL implementation plan for Lake Champlain.

7 ~~(3) Recommendations, if any, for amending the implementation plan or~~
 8 ~~for reopening the Lake Champlain TMDL.~~

9 ~~(d)~~(e) Beginning February 1, ~~2014~~ 2016 and annually thereafter, the
 10 Secretary, after consultation with the Secretary of Agriculture, Food and
 11 Markets and the Secretary of Transportation, shall submit to the House
 12 Committee on Fish, Wildlife and Water Resources, the Senate Committee on
 13 Natural Resources and Energy, the House Committee on Agriculture and
 14 Forest Products, and the Senate Committee on Agriculture a summary of
 15 activities and measures of progress of water quality ecosystem restoration
 16 programs.

17 * * * Water Quality Funding; Clean Water Fund; Clean Water Board; Reports
 18 and Audit; Rooms, Meals, and Alcohol Tax * * *

19 Sec. 35. 10 V.S.A. chapter 47, subchapter 7 is added to read:

20 Subchapter 7. Vermont Clean Water Fund

1 § 1387. PURPOSE

2 The General Assembly establishes in this subchapter a Vermont Clean Water
3 Fund as a mechanism for financing the improvement of water quality in the State.

4 The Clean Water Fund shall be used to:

5 (1) assist the State in complying with water quality requirements and

6 construction or implementation of water quality projects or programs;

7 (2) fund staff positions at the Agency of Natural Resources, Agency of

8 Agriculture, Food and Markets, or Agency of Transportation when the

9 positions are necessary to achieve or maintain compliance with water quality

10 requirements and existing revenue source are inadequate to fund the

11 positions; and

12 (3) provide funding to nonprofit organizations, regional associations, and

13 other entities for implementation and administration of community-based water

14 quality programs or projects.

15 § 1388. CLEAN WATER FUND

16 (a) There is created a special fund to be known as the “Clean Water Fund.”

17 Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

18 (1) the Fund shall be administered by the Clean Water Fund Board

19 established under section 1389 of this title;

1 (2) the Fund shall consist of:

2 (A) revenues dedicated for deposit into the Fund by the General
3 Assembly, including the Clean Water Fund per parcel fee established under
4 32 V.S.A. § 10502.

5 (B) other gifts, donations, and impact fees received from any source,
6 public or private, dedicated for deposit into the Fund and approved by the
7 Board.

8 (b) The Clean Water Fund Board shall make recommendations on
9 expenditures from the Fund consistent with the following priorities:

10 (1) to provide funding to programs and projects to address sources of
11 water pollution in waters listed as impaired under 33 U.S.C. § 1313(d) or
12 waters contributing to a listed impairment;

13 (2) to provide funding to address water pollution identified as a critical
14 source of water quality pollution;

15 (3) to provide funding to address or repair conditions that increase the
16 risk of flooding or pose a threat to life or property; and

17 (4) to provide funding to innovative nutrient removal technologies and
18 community-based methane digesters that utilize manure, wastewater, and food
19 residuals to produce energy.

20 (c) In the first three years of its existence, the Clean Water Fund Board
21 shall prioritize under subsection (b) of this section recommendation of awards

1 or assistance to municipalities for municipal compliance with the water quality
2 requirements.

3 (d) Unexpended balances and any earnings shall remain in the Fund from
4 year to year.

5 § 1389. CLEAN WATER FUND BOARD

6 (a) Creation. There is created a Clean Water Fund Board which shall be
7 attached to the Agency of Administration for administrative purposes.

8 (b) Organization of the Board. The Clean Water Fund Board shall be
9 composed of:

10 (1) The Secretary of Administration or designee.

11 (2) The Secretary of Natural Resources or designee.

12 (3) The Secretary of Agriculture, Food and Markets or designee.

13 (4) The Secretary of Commerce and Community Development or
14 designee.

15 (5) The Secretary of Transportation or designee.

16 (c) Officers; committees; rules. The Clean Water Fund Board shall
17 annually elect a chair from its members. The Clean Water Fund Board may
18 elect additional officers from its members, establish committees or
19 subcommittees, and adopt procedural rules as necessary and appropriate to
20 perform its work.

1 (d) Powers and duties of the Clean Water Fund Board.

2 (1) The Clean Water Fund Board shall have the following powers and
3 authority:

4 (A) to receive proposals from the Secretaries of Agriculture, Food,
5 and Markets, of Commerce and Community Development, of Natural
6 Resources, and of Transportation on the expenditures of the Fund;

7 (B)(i) To make recommendations to the Secretary of Administration
8 regarding the appropriate allocation of funds from the Clean Water Fund for
9 the purposes of developing the State budget. All recommendations from the
10 Board should be intended to achieve the greatest water quality gain for the
11 investment.

12 (ii) In making recommendations, the Board shall prioritize:

13 (I) funding to maintain seven staff positions at the Agency of
14 Agriculture, Food and Markets related to improving State water quality;

15 (II) funding to programs and projects that address sources of
16 water pollution in waters listed as impaired on the list of waters established by
17 33 U.S.C. § 1313(d);

18 (III) funding to projects that address water pollution identified
19 as a significant contributor of water quality pollution, including financial
20 assistance to grant recipients at the initiation of a funded project;

1 (IV) funding to programs or projects that address or repair
2 riparian conditions that increase the risk of flooding or pose a threat to life or
3 property;

4 (V) assistance required for State and municipal compliance
5 with stormwater requirements for highways and roads; and

6 (VI) funding for education, outreach, demonstration and access
7 to tools for the implementation of the Acceptable Management Practices for
8 Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the
9 Commissioner of Forests, Parks and Recreation.

10 (iii) In making recommendations, the Board may prioritize:

11 (I) funding for education and outreach regarding the
12 implementation of water quality requirements;

13 (II) funding to innovative or alternative technologies or
14 practices designed to improve water quality or reduce sources of pollution to
15 surface waters; and

16 (III) funding to purchase agricultural land in order to take that
17 land out of practice when the State water quality requirements cannot be
18 remediated through agricultural Best Management Practices.

19 (iv) The Board shall develop its recommendations in order to
20 provide equitable apportionment of awards from the Fund to all regions of the

1 State and for control of all sources of point and non-point sources of pollution
2 in the State; and

3 (C) to pursue and accept grants, gifts, donations, or other funding
4 from any public or private source and to administer such grants, gifts,
5 donations, or funding consistent with the terms of the grant, gift, or donation.

6 (2) The Clean Water Fund Board shall develop:

7 (A) A protocol for how an administrative agency in the State shall
8 submit a proposed recommendation of award from the Fund.

9 (B) an annual revenue estimate and proposed budget for the Clean
10 Water Fund;

11 (C) measures for determining progress and effectiveness of
12 expenditures for clean water restoration efforts; and

13 (D) the annual Clean Water Investment Report required under section
14 1389 of this title.

15 (3) The Clean Water Fund Board shall solicit public comment and
16 consult with organizations interested in improving water quality in Vermont.

17 (e) The Clean Water Fund Board shall have the administrative, technical,
18 and legal assistance of the Agency of Administration, the Agency of Natural
19 Resources, the Agency of Agriculture, Food and Markets, the Agency of
20 Transportation, and the Agency of Commerce and Community Development
21 for those issues or services within the jurisdiction of the respective agency.

1 The cost of the services provided by agency staff shall be paid from the budget
2 of the agency providing the staff services.

3 § 1390. CLEAN WATER INVESTMENT REPORT

4 (a) Beginning on January 15, 2017, and annually thereafter, the Clean
5 Water Fund Board shall publish a Clean Water Investment Report. The report
6 shall summarize all investments, including their cost-effectiveness, made by
7 the Clean Water Fund Board and other State agencies for clean water
8 restoration over the past calendar year. The report shall include expenditures
9 from the Clean Water Fund, the General Fund, the Transportation Fund, and
10 any other State expenditures for clean water restoration, regardless of funding
11 source. The report shall document progress or shortcomings in meeting
12 established indicators for clean water restoration. The report shall include a
13 summary of additional funding sources pursued by the Board, including
14 whether those funding sources were attained, if it was not attained, why it was
15 not attained, and where the money was allocated from the Fund. The report
16 may also provide an overview of additional funding necessary to meet
17 objectives established for clean water restoration and recommendations for
18 additional revenue to meet those restoration objectives. The provisions of
19 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report
20 required by this section.

1 (b) The Board shall develop and use a results based accountability process
2 in publishing the annual report required by subsection (a) of this section.

3 § 1389a. CLEAN WATER FUND AUDIT

4 (a) On or before January 15, 2020, the Secretary of Administration shall
5 submit to the House and Senate Committees on Appropriations, the Senate
6 Committee on Agriculture, the House Committee on Agriculture and Forest
7 Products, the Senate Committee on Natural Resources and Energy, and the
8 House Committee on Fish, Wildlife and Water Resources a program audit of
9 the Clean Water Fund. The report shall include:

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

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

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

17 (4) a recommendation of whether the General Assembly should
18 authorize the continuation of the Clean Water Fund and, if so, at what funding
19 level.

20 (b) The audit required by this section shall be conducted by a qualified,
21 independent environmental consultant or organization with knowledge of the

1 federal Clean Water Act, State water quality requirements and programs, the
2 Lake Champlain Total Maximum Daily Load plan, and the program elements
3 of the State clean water initiative.

4 * * * Clean Water Fund Per Parcel Fee * * *

5 Sec. 36. 32 V.S.A. § 10502 is added to read:

6 § 10502. CLEAN WATER FUND PER PARCEL FEE

7 (a) Per parcel fee. An annual Clean Water Fund per parcel fee of \$25.00
8 shall be assessed on every parcel in the State.

9 (b) Exemption. A municipality shall not assess the fee established under
10 subsection (a) of this section to:

11 (1) a parcel exempt from taxation under State or federal law;

12 (2) a parcel composed entirely of a railroad track right-of-way, provided
13 that the Commissioner shall assess the fee on parcels on which railroad
14 stations, maintenance buildings, or other developed land used for railroad
15 purposes is located; or

16 (3) a parcel of land for which the State lacks authority to impose the fee
17 established by this section.

18 (c) Assessment and collection of fee.

19 (1) Beginning on July 1, 2015, the Clean Water Fund per parcel fee shall
20 be assessed and collected as part of the tax bill issued under subsection 5402(b)
21 of this title, and may be prorated according to the number of tax bills assessed

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1 by a municipality. A municipality shall list the fee assessed under this section
2 on a tax bill as the “Clean Water Fund Per Parcel Fee.” The Clean Water Fund
3 per parcel fee shall be listed separately from the tax collected under subsection
4 5402(b) of this title, provided that the payment for both the tax and fee shall be
5 made in one form of payment.

6 (2) The treasurer of each municipality shall remit the collected Clean
7 Water Fund per parcel fee to the State Treasurer:

8 (A) in one payment due on December 1 of each year; or

9 (B) as authorized by the Department procedure adopted under section
10 (e) of this section.

11 (3) Municipalities may use all authority under chapter 133 of this title
12 for the assessment and collection of the Clean Water Fund fee, including
13 collection of fees and costs under section 5288 of this title.

14 (4) In case of insufficient payment of the per parcel fee by a taxpayer to
15 a municipality, the municipality shall not be required to remit to the State the
16 amount of full liability for all parcels within the municipality.

17 (5) In the case of a taxpayer who pays only a portion of the full tax
18 under subsection 5402(b) and the full amount of the Clean Water Fund per
19 parcel fee, a municipal treasurer shall credit all payment made by the taxpayer
20 to the tax liability under subsection 5402(b) of this title before remitting
21 monies to the Clean Water Fund under subsection (d) of this section.

1 (d) Disposition. The Commissioner of Taxes shall deposit all fees
2 collected under this section in the Clean Water Fund, established under
3 10 V.S.A. § 1387, for the authorized uses of that Fund.

4 (e) Department procedure. The Department of Taxes shall, after
5 consultation with municipal officials or representatives of municipal officials,
6 issue a procedure regarding the process for collection of the Clean Water Fund
7 per parcel fee as part of the tax bill issued under subsection 5402(b) of this
8 title. In the procedure, the Department shall address how parcels are assessed,
9 remittance, and enforcement of the Clean Water Fund per parcel fee, including
10 how frequently a municipality may remit to the Department fees collected
11 under this section. The Department also shall include in the procedure
12 guidance for municipalities regarding whether a fee paid under this section is
13 tax deductible.

14 (f) Abatement. A person may seek and a municipality may grant
15 abatement under 24 V.S.A. § 1535 of a fee assessed under this section.

16 (g) Education and outreach. The Department shall hold educational
17 meetings or prepare educational materials for municipal officials regarding the
18 requirements of this section.

1 **Sec. 37.** 32 V.S.A. § 5258 is amended to read:

2 § 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY

3 RECORDED

4 The fees and costs allowed after the warrant and levy for delinquent taxes
5 have been recorded shall be as follows: Levy and extending of warrant,
6 \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00,
7 to be paid the town clerk; notices and publication of notice, actual costs
8 incurred; and expenses actually and reasonably incurred by the tax collector for
9 legal assistance in the preparation for or conduct of said sale when authorized
10 by the selectboard, provided that such expenses shall not exceed 15 percent of
11 the uncollected tax; travel, reimbursement at the rate established by the
12 contract governing State employees; attending and holding sale, \$10.00;
13 making return \$10.00 and recording same in town clerk's office, to be paid the
14 town clerk \$10.00; \$10.00 for collection of a delinquent Clean Water per
15 parcel fee assessed under section 10502 of this title; collector's deed, \$30.00;
16 which fees and costs, together with the collector's fee of eight percent shall be
17 in lieu of any or all other fees and costs permitted or allowed by law.

18 **Sec. 38.** REPEAL OF CLEAN WATER FUND PER PARCEL FEE

19 32 V.S.A. § 10502 (Clean Water Fund per parcel fee) shall be repealed on

20 July 1, 2021.

1 * * * Appropriations of Agency Staff * * *

2 Sec. 39. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD
3 AND MARKETS STAFF

4 Notwithstanding provisions of 10 V.S.A. § 1388 to the contrary, in addition
5 to any other funds appropriated to the Agency of Agriculture, Food and
6 Markets in fiscal year 2016, there is appropriated from the Clean Water Fund
7 created under 10 V.S.A § 1387 to the Agency of Agriculture Food and Markets
8 \$952,000.00 in fiscal year 2016 for the purpose of hiring 7 positions for
9 implementation and administration of agricultural water quality programs in
10 the State.

11 Sec. 40. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL
12 CONSERVATION STAFF

13 In addition to any other funds appropriated to the Department of
14 Environmental Conservation in fiscal year 2016, there is appropriated from the
15 Environmental Permit Fund created under 3 V.S.A § 2805 to the Department
16 of Environmental Conservation \$1,312,556.00 in fiscal year 2016 for the
17 purpose of hiring 13 positions for implementation and administration of
18 agricultural water quality programs in the State and for contracting with
19 regional planning commissions as authorized by 10 V.S.A. § 1253.

1 * * * Secretary of Administration; Report on Per Parcel Fee * * *

2 Sec. 41. SECRETARY OF ADMINISTRATION REPORT ON PER

3 PARCEL WATER QUALITY FEE

4 (a) On or before January 15, 2016, the Secretary of Administration, after
5 consultation with the Department of Taxes, shall submit to the House
6 Committee on Fish, Wildlife and Water Resources, the Senate Committee on
7 Natural Resources and Energy, the House Committee on Agriculture and
8 Forest Products, the Senate Committee on Agriculture, the House Committee
9 on Ways and Means, and the Senate Committee on Finance a recommendation
10 for establishing a fee on parcels of property in the State for the purpose of
11 raising revenue to fund water quality improvement programs in the State. The
12 recommendation shall include:

13 (1) a tiered per parcel fee that provides for equitable apportionment
14 among all parcel owners, including owners of industrial property, commercial
15 property, residential property, or agricultural lands;

16 (2) an estimate of the amount of revenue to be generated from the
17 proposed per parcel fee;

18 (3) a summary of how assessment of the fee will be administered,
19 collected, and enforced; and

20 (4) a legislative proposal to implement the proposed per parcel fee
21 program.

1 (b) As used in this section, “parcel” shall have the same meaning as defined
2 in section 4152 of this title.

3 * * * Department of Environmental Conservation Water Quality Fees * * *

4 Sec. 42. 3 V.S.A. § 2822 is amended to read:

5 § 2822. BUDGET AND REPORT; POWERS

6 * * *

7 (i) The Secretary shall not process an application for which the applicable
8 fee has not been paid unless the Secretary specifies that the fee may be paid at
9 a different time or unless the person applying for the permit is exempt from the
10 permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons~~
11 ~~who are exempt under 32 V.S.A. § 710 are also exempt from the application~~
12 ~~fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I)~~
13 ~~and (II) of this section if they otherwise meet the requirements of 32 V.S.A.~~
14 ~~§ 710.~~ Municipalities shall be exempt from the payment of fees under this
15 section except for those fees prescribed in subdivisions (j)(1), ~~(2)~~, (7), (8), (14),
16 and (15) of this section for which a municipality may recover its costs by
17 charging a user fee to those who use the permitted services. Municipalities
18 shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26),
19 except that a municipality shall also be exempt from those fees for orphan
20 stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I)
21 or (II) of this section when the municipality agrees to become an applicant or

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1 ~~eo~~ applicant for an orphan stormwater system under 10 V.S.A. § 1264e for
 2 which a municipality has assumed full legal responsibility under 10 V.S.A.
 3 § 1264.

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

* * *

8 (2) For discharge permits issued under 10 V.S.A. chapter 47 and orders
 9 issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~
 10 \$240.00 shall be paid at the time of application for a discharge permit in
 11 addition to any application review fee and any annual operating fee, except for
 12 permit applications under subdivisions (2)(A)(iii)(III) and (V) of this
 13 subsection:

(A) Application review fee.

(i) Municipal, industrial,
 noncontact cooling water, and
 thermal discharges.

(I) Individual permit: original	\$0.0023 <u>\$0.003</u> per gallon
application; amendment for	design flow; minimum
increased flows; amendment	\$50.00 <u>\$100.00</u> per
for change in treatment process;	outfall; maximum

1 waters: original application;
2 amendment for increased flows;
3 amendment for change in
4 treatment process-;
5 (II) Individual operating permit \$1,400.00 per acre
6 or application to operate under impervious area;
7 general operating permit for minimum \$1,400.00
8 collected stormwater runoff which per application.
9 is discharged to Class A waters;
10 original application; amendment
11 for increased flows; amendment
12 for change in treatment process.
13 (III) Individual permit or
14 application to operate under
15 general permit for construction
16 activities; original application;
17 amendment for increased acreage.
18 (aa) Projects with low risk to \$50.00 five acres or
19 waters of the State-; less: \$100.00 per project;
20 original application.
21 (bb) Projects with low risk to \$220.00 per project.

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1 waters of the State; greater than

2 five acres:

3 (cc) Projects with moderate risk \$360.00; five acres

4 to waters of the State-; or less: \$480.00 per

5 project original

6 application.

7 ~~(cc) Projects that require an \$720.00 per project~~

8 ~~individual permit. original application.~~

9 (dd) Projects with moderate risk \$640.00.

10 to waters of the State; greater

11 than five acres:

12 (ee) Projects that require an \$1,200.00.

13 individual permit; ten acres

14 or less:

15 (ff) Projects that require an \$1,800.00.

16 individual permit; greater than

17 10 acres:

18 (IV) Individual permit or \$220.00 \$440.00 per

19 application to operate under facility.

20 general permit for stormwater

21 runoff associated with industrial

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1 activities with specified SIC

2 codes; original application;

3 amendment for change in activities-;

4 (V) Individual permit or ~~\$1,200.00~~ \$2,400.00

5 application to operate under per system.

6 general permit for stormwater

7 runoff associated with

8 municipal separate storm sewer

9 systems; original application; amendment

10 for change in activities-;

11 (VI) Individual operating permit or application to operate under

12 a general permit for a residually designated stormwater discharge original

13 application; amendment; for increased flows amendment; for change in

14 treatment process.

15 (aa) For discharges to Class B water; ~~\$430.00~~ \$860.00 per

16 acre of impervious area, minimum ~~\$220.00~~ \$280.00.

17 (bb) For discharges to Class A water; ~~\$1,400.00~~ \$1,700.00

18 per acre of impervious area, minimum ~~\$1,400.00~~ \$1,700.00.

19 (VII) Renewal, transfer, or ~~\$0.00~~

20 minor amendment of individual

21 permit or approval under

- 1 (iv) Stormwater.
- 2 (I) Individual operating permit ~~\$255.00~~ \$310.00 per acre
- 3 or approval under general operating impervious area; ~~\$235.00~~
- 4 permit for collected stormwater \$310.00 minimum.
- 5 runoff which is discharged to
- 6 class A waters.;
- 7 (II) Individual operating permit ~~\$80.00~~ \$160.00 per acre
- 8 or approval under general operating impervious area; ~~\$80.00~~
- 9 permit for collected stormwater \$160.00 minimum.
- 10 runoff which is discharged to
- 11 Class B waters.;
- 12 (III) Individual permit or ~~\$80.00~~ \$160.00
- 13 approval under general permit per facility.
- 14 for stormwater runoff from
- 15 industrial facilities with
- 16 specified SIC codes.;
- 17 (IV) Individual permit or ~~\$80.00 per system~~
- 18 application to operate under \$10.00 per acre of
- 19 general permit for stormwater impervious surface within
- 20 runoff associated with municipal the municipality; annually.
- 21 separate storm sewer systems.;

1 (V) Individual permit or approval under general permit for
2 residually designated stormwater discharges.

3 (aa) For discharges to Class A water; ~~\$255.00~~ \$310.00 per
4 acre of impervious area, minimum ~~\$255.00~~ \$310.00.

5 (bb) For discharges to Class B water; ~~\$80.00~~ \$160.00 per
6 acre of impervious area, minimum ~~\$80.00~~ \$160.00.

7 (VI) Application to operate under a general permit for
8 stormwater runoff associated with municipal roads: \$2,000.00 per
9 authorization annually.

10 (VII) Application to operate under a general permit for stormwater
11 runoff associated with State roads: \$90,000.00 per authorization annually.

12 * * *

13 (11) For stream alteration and flood hazard area permits issued under
14 10 V.S.A. ~~chapter chapters 41 and 32: \$225.00 per application.~~

15 (A) Stream alteration; individual permit: \$350.00.

16 (B) Stream alteration; general permit; reporting category: \$ 200.00.

17 (C) Stream alteration; individual permit; municipal bridge, culvert,
18 and unimproved property protection: \$350.00.

19 (D) Stream alteration; general permit; municipal bridge, culvert, and
20 unimproved property protection: \$200.00.

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1 (A) land application sites; facilities that further reduce pathogens;
2 disposal facilities;: ~~\$950.00~~ \$1,000.00 per
3 application.

4 (B) all other types of facilities: ~~\$110.00~~ \$125.00 per
5 application.

6 * * *

7 (26) For individual conditional use determinations, for individual
8 wetland permits, for general conditional use determinations issued under
9 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit,
10 an administrative processing fee assessed under subdivision (2) of this
11 subsection (j) and an application fee of:

12 (A) \$0.75 per square foot of proposed impact to Class I or II
13 wetlands;

14 (B) \$0.25 per square foot of proposed impact to Class I or II wetland
15 buffers;

16 (C) maximum fee, for the conversion of Class II wetlands or wetland
17 buffers to cropland use, \$200.00 per application. ~~For purposes of~~ As used in
18 this subdivision, “cropland” means land that is used for the production of
19 agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing
20 bushes, trees, or vines and the production of Christmas trees;

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1 (D) \$0.25 per square foot of proposed impact to Class I or II wetlands
 2 or Class I or II wetland buffer for utility line, pipeline, and ski trail projects
 3 when the proposed impact is limited to clearing forested wetlands in a corridor
 4 and maintaining a cleared condition in that corridor for the project life;

5 (E) \$1.50 per square foot of impact to Class I or II wetlands when the
 6 permit is sought after the impact has taken place;

7 (F) \$100.00 per revision to an application for an individual wetland
 8 permit or authorization under a general permit when the supplement is due to a
 9 change to the project that was not requested by the Secretary; and

10 (G) minimum fee, \$50.00 per application.

11 * * *

12 (33) \$10.00 per 1000 gallons based on the rated capacity of the tank
 13 being pumped rounded to the nearest 1000 gallon.

14 * * *

15 Sec. 43. 32 V.S.A. § 710 is amended to read:

16 § 710. PAYMENT OF STATE AGENCY FEES

17 (a) Notwithstanding any other provision of law, the Agency of
 18 Transportation, any cooperating municipalities, and their contractors or agents
 19 shall be exempt from the payment of fee charges for reviews, inspections, or
 20 nonoperating permits issued by the Department of Public Safety, a District
 21 Environmental Commission, and the Agency of Natural Resources for any

1 projects undertaken by or for the Agency and any cooperating municipalities
2 for which all or a portion of the funds are authorized by a legislatively
3 approved transportation construction, rehabilitation, or paving program within
4 a general appropriation act introduced pursuant to section 701 of this title
5 except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10),
6 (j)(11), and (j)(26).

7 (b) Notwithstanding any other provision of law, no fees shall be charged
8 for reviews, inspections, or nonoperating permits issued by the Department of
9 Public Safety, a District Environmental Commission, and the Agency of
10 Natural Resources for:

11 (1) Any project undertaken by the Department of Buildings and General
12 Services, the Agency of Natural Resources or the Agency of Transportation
13 which is authorized or funded in whole or in part by the capital construction
14 act introduced pursuant to section 701a of this title except for those fees
15 established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

16 (2) Any project undertaken by a municipality, which is funded in whole
17 or in part by a grant or loan from the Agency of Natural Resources or the
18 Agency of Transportation financed by an appropriation of a capital
19 construction act introduced pursuant to section 701a of this title except for
20 those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B),
21 (j)(10), (j)(11), and (j)(26). However, all such fees shall be paid for reviews,

1 inspections, or permits required by municipal solid waste facilities developed
 2 by a solid waste district which serves, or is expected to serve, in whole or in
 3 part, parties located outside its own district boundaries pursuant to 10 V.S.A.
 4 chapter 159.

5 * * * Wastewater Treatment Plants; Financial Assistance for

6 Phosphorus Reduction * * *

7 Sec. 44. 10 V.S.A. § 1266a is amended to read:

8 § 1266a. DISCHARGES OF PHOSPHORUS

9 (a) No person directly discharging into the drainage basins of Lake
 10 Champlain or Lake Memphremagog shall discharge any waste that contains a
 11 phosphorus concentration in excess of 0.80 milligrams per liter on a monthly
 12 average basis. Discharges of less than 200,000 gallons per day, permitted on
 13 or before July 1, 1991, shall not be subject to the requirements of this
 14 subsection. Discharges from a municipally owned aerated lagoon type
 15 secondary sewage treatment plant in the Lake Memphremagog drainage basin,
 16 permitted on or before July 1, 1991 shall not be subject to the requirements of
 17 this subsection unless the plant is modified to use a technology other than
 18 aerated lagoons.

19 (b) Notwithstanding any provision of subsection (a) of this section to the
 20 contrary, the Secretary shall establish effluent phosphorus wasteload
 21 allocations or concentration limits within any drainage basin in Vermont, as

1 needed to achieve wasteload allocations in a total maximum daily load
2 document approved by the U.S. Environmental Protection Agency, or as
3 needed to attain compliance with water quality standards adopted by the
4 Secretary pursuant to chapter 47 of this title.

5 (c) ~~The Secretary of Natural Resources shall establish a schedule for~~
6 ~~municipalities that requires compliance with this section at a rate that~~
7 ~~corresponds to the rate at which funds are provided under subsection 1625(e)~~
8 ~~of this title. To the extent that funds are not provided to municipalities eligible~~
9 ~~under that subsection, municipal compliance with this section shall not be~~
10 ~~required. [Repealed.]~~

11 Sec. 45. 10 V.S.A. § 1625 is amended to read:

12 § 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO
13 ABATE DRY WEATHER SEWAGE FLOWS

14 (a) When the Department finds that a proposed water pollution abatement
15 project is necessary to maintain water quality standards during dry weather
16 sewage flows, and that the proposed type, kind, quality, size, and estimated
17 cost, including operation cost and sewage disposal charges, of the project are
18 suitable for abatement of pollution, and the project or the prescribed project
19 phases are necessary to meet the intent of the water quality classifications
20 established by the Secretary or by statute under chapter 47 of this title, the
21 Department may award to municipalities a State assistance grant of up to

1 25 percent of the eligible project cost, provided that in no case shall the total of
2 the State and federal grants exceed 90 percent of the eligible project costs:

3 (1) except that the 90 percent limitation shall not apply when the
4 municipality provides, as their local share, federal funds allocated to them for
5 the purpose of matching other federal grant programs having a matching
6 requirement; and

7 (2) except that the total of state and federal grants issued under
8 P.L. 92-500 section 202(a)(2) may equal up to 95 percent of the eligible costs
9 for innovative or alternative wastewater treatment processes and techniques.

10 (b) In carrying out the purposes of this subchapter, the Department shall
11 define the purpose and scope of an eligible project, including a determination
12 of the area to be served, type of treatment, effluent limitations, eligible
13 construction costs, cost accounting procedures and methods and other such
14 project construction, operation and fiscal elements necessary to meet federal
15 aid requirements. The Department shall, as a part of the administration of this
16 grant program, encourage municipalities to undertake capital development
17 planning and to establish water and sewer charges along public utility
18 concepts.

19 (c) Any municipality having proceeded with construction of facilities with
20 a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in
21 the State grant to a total of 35 percent of the eligible project costs.

1 (d) The Department may award a State assistance grant of up to 50 percent
2 of the eligible costs of an approved pollution abatement project or a portion
3 thereof not eligible for federal financial assistance in a municipality that is
4 certified by the Secretary of Commerce and Community Development to be
5 within the designated job development zone. To achieve the objectives of
6 chapter 29, subchapter 2 of this title, the eligibility and priority provisions of
7 this chapter do not apply to municipalities within a designated job development
8 zone.

9 ~~(e) If the Department finds that a proposed municipal water pollution~~
10 ~~control project is necessary to reduce effluent phosphorus concentration or~~
11 ~~mass loading to the level required in section 1266a of this title, the Department~~
12 ~~shall award to the municipality, subject to the availability of funds, a state~~
13 ~~assistance grant. Such grants shall be for 100 percent of the eligible project~~
14 ~~cost. This funding shall not be available for phosphorus removal projects~~
15 ~~where the effluent concentration must be reduced in order to maintain a~~
16 ~~previously permitted mass loading of phosphorus.~~

1 (b) Acceptable management practices. On or before July 1, 2016, the
2 Commissioner shall revise by rule the acceptable management practices for
3 maintaining water quality on logging jobs in Vermont. The revised acceptable
4 management practices shall ensure that all logging operations, on both public
5 and private forestland, are designed to: prevent or minimize discharges of
6 sediment, petroleum products, and woody debris (logging slash) from entering
7 streams and other bodies of water; improve soil health of forest land; protect
8 aquatic habitat and aquatic wildlife; and prevent erosion and maintain natural
9 water temperature. The purpose of the acceptable management practices is to
10 provide measures for loggers, foresters, and landowners to utilize, before,
11 during and after logging operations to comply with the Vermont Water Quality
12 Standards and minimize the potential for a discharge from logging operations
13 in Vermont in accordance with section 1259 of this title. The rules adopted
14 under this subsection shall be advisory, and not mandatory.

15 Sec. 47. DEPARTMENT OF FORESTS, PARKS AND RECREATION
16 REPORT; ACCEPTABLE MANAGEMENT PRACTICES;
17 MAPLE SYRUP PRODUCTION UNDER USE VALUE
18 APPRAISAL

19 On or before January 15, 2016, the Commissioner of Forests, Parks and
20 Recreation shall submit to the House Committee on Fish, Wildlife and Water
21 Resources, the Senate Committee on Natural Resources and Energy, and the

1 House Committee on Natural Resources and Energy a recommendation and
2 supporting basis as to how:

3 (1) to implement the acceptable management practices for maintaining
4 water quality on logging jobs in Vermont as mandatory practices for all
5 logging operations on public and private forestland;

6 (2) the Department of Forests, Parks and Recreation will enforce
7 acceptable management practices for maintaining water quality on logging jobs
8 in Vermont; and

9 (3) whether maple syrup production on forestland should be required to
10 enroll in the use value appraisal program under 32 V.S.A. chapter 124 as
11 managed forestland and not agricultural land.

12 Sec. 48. 10 V.S.A. § 1259(f) is amended to read:

13 (f) The provisions of subsections (c), (d), and (e) of this section shall not
14 regulate ~~accepted~~ required agricultural ~~or silvicultural~~ practices, as ~~such are~~
15 defined adopted by rule by the ~~secretary of agriculture, food and markets and~~
16 ~~the commissioner of forests, parks and recreation, respectively, after an~~
17 ~~opportunity for a public hearing~~ Secretary of Agriculture, Food and Markets,
18 or the acceptable management practices for maintaining water quality on
19 logging jobs in Vermont, as adopted by the Commissioner of Forests, Parks
20 and Recreation; nor shall these provisions regulate discharges from
21 concentrated animal feeding operations that require a permit under section

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1 1263 of this title; nor shall those provisions prohibit stormwater runoff or the
2 discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

3 Sec. ~~49~~. 24 V.S.A. § 4413(d) is amended to read:

4 (d) A bylaw under this chapter shall not regulate ~~accepted~~ required
5 agricultural ~~and silvicultural~~ practices, including the construction of farm
6 structures, as those practices are defined by the ~~secretary of agriculture, food~~
7 ~~and markets~~ Secretary of Agriculture, Food and Markets or the ~~commissioner~~
8 ~~of forests, parks and recreation~~ acceptable management practices for
9 maintaining water quality on logging jobs in Vermont as adopted by the
10 Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A.
11 ~~§§ 1021(f) and 1259(f)~~ § 2622 and 6 V.S.A. § 4810.

12 * * *

13 * * * Eligibility for Ecosystem Restoration Program Assistance * * *

14 Sec. ~~50~~. ECOSYSTEM RESTORATION PROGRAM; CLEAN WATER
15 FUND; ELIGIBILITY FOR FINANCIAL ASSISTANCE

16 It is the policy of the State of Vermont that all municipal separate storm
17 sewer system (MS4) communities in the State shall be eligible for grants and
18 other financial assistance from the Agency of Natural Resources' Ecosystem
19 Restoration Program, the Clean Water Fund, or any other State water quality
20 financing program. A project or proposal that is the subject of an application
21 for a grant or other assistance from the Agency of Natural Resources shall not

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1 be denied solely on the basis that the project or proposal may be construed as a
2 regulatory requirement of the MS4 permit program.

3 Sec. 51. EFFECTIVE DATES

4 (a) This section and Secs. 35 (Clean Water Fund) and 36 (Clean Water
5 Fund per parcel fee) shall take effect on passage.

6 (b) The remainder of the bill shall take effect on July 1, 2015, except that:

7 (1) Sec. 3 (small farm certification) shall take effect on July 1, 2017;

8 (2) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall
9 take effect 45 days after the effective date of rules adopted under 6 V.S.A.
10 § 4988(a).

11 (3) In Sec. 30, the permit requirements under 10 V.S.A. § 1264(h)(2) for
12 discharges of regulated stormwater to Lake Champlain or to a water that
13 contributes to the impairment of Lake Champlain shall take effect on
14 October 1, 2015.

15

16

17 (Committee vote: _____)

18

19

Senator _____

20

FOR THE COMMITTEE