

1 H.35

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; agriculture; water resources; water
6 quality; Lake Champlain

7 Statement of purpose of bill as introduced: This bill proposes to adopt
8 multiple provisions related to the remediation and preservation of the waters of
9 the State.

10 An act relating to improving the quality of State waters

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

12 * * * Findings; Agricultural Water Quality * * *

13 Sec. 1. PURPOSE; IMPROVEMENT OF WATER QUALITY

14 It is the purpose of this act to:

15 (1) improve the quality of the waters of Vermont;

16 (2) authorize proactive measures designed to implement and meet

17 ultimately the impending total maximum daily load (TMDL) plan for Lake

18 Champlain, meet impending TMDL plans for other State waters, and improve

19 water quality across the State;

1 (3) identify cost-effective strategies for the State to address water
2 quality issues; and

3 (4) engage more municipalities, agricultural operations, businesses, and
4 other interested parties as part of the State’s efforts to improve the quality of
5 the waters of the State.

6 * * * Agricultural Water Quality;

7 Accepted Agricultural Practices * * *

8 Sec. 2. 6 V.S.A. § 4810 is amended to read:

9 § 4810. AUTHORITY; COOPERATION; COORDINATION

10 (a) Agricultural land use practices. In accordance with 10 V.S.A.
11 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.
12 chapter 25 ~~of Title 3~~, and shall implement and enforce agricultural land use
13 practices in order to reduce the amount of agricultural pollutants entering the
14 waters of the ~~state~~ State. These agricultural land use practices shall be created
15 in two categories, pursuant to subdivisions (1) and (2) of this subsection.

16 (1) “Accepted Agricultural Practices” (AAPs) shall be standards to be
17 followed in conducting agricultural activities in this ~~state~~ State. These
18 standards shall address activities which have a potential for causing pollutants
19 to enter the groundwater and waters of the ~~state~~ State, including dairy and
20 other livestock operations plus all forms of crop and nursery operations and
21 on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902,

1 livestock and poultry slaughter and processing activities. The AAPs shall
2 include, as well as promote and encourage, practices for farmers in preventing
3 pollutants from entering the groundwater and waters of the ~~state~~ State when
4 engaged in, ~~but not limited to~~, animal waste management and disposal, soil
5 amendment applications, plant fertilization, and pest and weed control.

6 Persons engaged in farming, as defined in 10 V.S.A. § 6001, who ~~follow~~ are in
7 compliance with these practices shall be presumed to be in compliance with
8 water quality standards. AAPs shall be practical and ~~cost-effective~~
9 cost-effective to implement. The AAPs for groundwater shall include a
10 process under which the ~~agency~~ Agency shall receive, investigate, and respond
11 to a complaint that a farm has contaminated the drinking water or groundwater
12 of a property owner.

13 (2) “Best Management Practices” (BMPs) may be required by the
14 ~~secretary~~ Secretary on a ~~case-by-case~~ case-by-case basis. ~~Before requiring~~
15 ~~BMPs, the secretary shall determine that sufficient financial assistance is~~
16 ~~available to assist farmers in achieving compliance with applicable BMPs.~~
17 When requiring implementation of a BMP, the Secretary shall inform a farmer
18 of the resources available to assist the farmer in implementing BMPs and
19 complying with the Vermont water quality standards. BMPs shall be practical
20 and cost effective to implement.

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

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

1 with the ~~secretary of natural resources~~ Secretary of Natural Resources in
2 implementing and enforcing programs, plans, and practices developed for the
3 proper management of composting facilities when those facilities are located
4 on a farm.

5 Sec. 3. 6 V.S.A. § 4810a is added to read:

6 § 4810a. ACCEPTABLE AGRICULTURAL PRACTICES; REVISION

7 (a) On or before July 1, 2016 the Secretary of Agriculture, Food, and
8 Markets shall amend the accepted agricultural practices to enhance practices
9 on farms to reduce adverse impacts to water quality and to implement the small
10 farm certification program required by section 4858 of this title. At a
11 minimum, the amendments to the accepted agricultural practices shall:

12 (1) Define what constitutes a small farm for the purposes of the
13 certification required by section 4858 of this title.

14 (2) Require a farm subject to the accepted agricultural practices to stack
15 manure, store fertilizer, and store other nutrients on the farm in an area that
16 prevents impacts to private wells. In no case shall manure stacking sites,
17 fertilizer storage, and other nutrient storage be located within 100 feet of
18 private wells.

19 (3) Prohibit a farm from stacking or storing manure on lands subject to
20 annual overflow from adjacent waters.

1 (4) Prohibit a farm from the stacking of manure in a manner that
2 presents a threat of discharge to a surface water. In no case shall manure be
3 field stacked on an unimproved site within 100 feet of a surface water.

4 (5) Require the construction and management of barnyards, waste
5 management systems, animal holding areas, and production areas in a manner
6 to prevent runoff of waste to a surface water, to groundwater, or across
7 property boundaries.

8 (6) Establish standards for nutrient management on farms.

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

14 (8) Require a farm, subject to standards established by the Secretary, to
15 maintain a vegetative buffer zone of perennial vegetation between annual
16 croplands and the top of the bank of adjoining surface waters. At a minimum
17 the vegetative buffer standards established by the Secretary shall prohibit the
18 application of manure on the farm within 25 feet of an adjoining surface water
19 or within 10 feet of a ditch.

1 (9) Prohibit the construction or siting of a farm structure for the storage
2 of manure, fertilizer, or pesticide storage within a floodway area identified on a
3 National Flood Insurance Map on file with a town clerk.

4 (10) Prohibit the construction or siting of a farm structure or the storage
5 or manure, fertilizer, or pesticides storage within a river corridor designated by
6 the Secretary of Natural Resources.

7 (11) Establish standards for the exclusion of livestock from surface
8 waters to prevent erosion and adverse water quality impacts.

9 (12) Establish standards for the management of subsurface agriculture
10 tile drainage consistent with subsection (b) of this section.

11 (13) Require nutrient management planning on all certified small farms
12 that manage agricultural wastes.

13 (b) On or before January 15, 2018, the Secretary of Agriculture, Food and
14 Markets shall amend the accepted agricultural practices in order to include
15 requirements for reducing nutrient contribution to surface waters from
16 subsurface agriculture tile drainage.

17 Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT

18 ON SUBSURFACE TILE DRAINAGE

19 On or before January 15, 2017, the Secretary of Agriculture, Food and
20 Markets, after consultation with the Secretary of Natural Resources and the
21 U.S. Department of Agriculture's Natural Resource Conservation Service,

1 shall report to the House Committee on Fish, Wildlife and Water Resources,
2 the Senate Committee on Natural Resources and Energy, the House Committee
3 on Agriculture and Forest Products, and the Senate Committee on Agriculture
4 regarding the status of current, scientific research relating to the environmental
5 management of subsurface agriculture tile drainage and how subsurface
6 agriculture tile drainage contributes to nutrient loading of surface waters. The
7 report shall include a recommendation from the Secretary of Agriculture, Food
8 and Markets regarding how best to manage subsurface agriculture tile drainage
9 in the State in order to mitigate the contribution of tile drainage to nutrient
10 loading of surface waters.

11 * * * Agricultural Water Quality;

12 Small Farm Certification and Inspection * * *

13 Sec. 5. 6 V.S.A. § 4858a is added to read:

14 § 4858a. SMALL FARM CERTIFICATION

15 (a) Required small farm certification. A person who owns or operates a
16 small farm shall certify compliance with the accepted agriculture practices.
17 The Secretary of Agriculture, Food and Markets shall certify the requirements
18 and manner of certification, provided that the Secretary shall require an owner
19 or operator of a farm to submit a certification at least once every five years.

20 (b) Rulemaking; small farm certification. The Secretary of Agriculture,
21 Food and Markets shall adopt by rule requirements for a small farm

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

4 (c) Small farm inspection. The Secretary may inspect a small farm in the
5 State at any time for the purposes of assessing compliance by the small farm
6 with the accepted agricultural practices and determining consistency with a
7 certification of compliance submitted by the person who owns or operates the
8 small farm. The Secretary may prioritize inspections of small farms in the
9 State based on identified water quality issues posed by a small farm.

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

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

20 (2) Annually, the Secretary shall establish a priority ranking system for
21 small farms according to the water quality benefit associated with the capital,

1 structural, or technical improvements identified as needed by the Secretary
2 during an inspection of the farm.

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

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

9 § 4860. REVOCATION; ENFORCEMENT

10 (a) The ~~secretary~~ Secretary may revoke coverage under a general permit ~~or,~~
11 an individual permit, or a small farm certification issued under this subchapter
12 after following the same process prescribed by section 2705 of this title
13 regarding the revocation of a handler's license. The ~~secretary~~ Secretary may
14 also seek enforcement remedies under sections 1, 11, 12, 13, 16, and 17 of this
15 title as well as assess an administrative penalty under section 15 of this title
16 from any person who fails to comply with any permit provision as required by
17 this subchapter or who violates the terms or conditions of coverage under any
18 general permit ~~or,~~ any individual permit, or any small farm certification issued
19 under this subchapter. However, notwithstanding provisions of section 15 of
20 this title to the contrary, the maximum administrative penalty assessed for a
21 violation of this subchapter shall not exceed \$5,000.00 for each violation, and

1 the maximum amount of any penalty assessed for separate and distinct
2 violations of this chapter shall not exceed \$50,000.00.

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

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

1 * * * Agricultural Water Quality; Corrective Actions * * *

2 Sec. 7. 6 V.S.A. § 4812 is amended to read:

3 § 4812. CORRECTIVE ACTIONS

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

1 (b) The Secretary may:

2 (1) issue cease and desist orders and administrative penalties in
3 accordance with the requirements of this chapter and sections 15, 16, and 17 of
4 this title; and

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

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

13 (d) [Repealed.]

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

1 * * * Agricultural Water Quality; Basin Planning * * *

2 Sec. 8. 6 V.S.A. § 4813 is amended to read:

3 § 4813. ~~BASIN MANAGEMENT; APPEALS TO THE WATER~~

4 ~~RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

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

19 (b) Any person engaged in farming that has been required by the ~~secretary~~
20 ~~of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to
21 implement best management practices or any person who has petitioned the

1 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
2 Markets under subsection (a) of this section may appeal the ~~secretary of~~
3 ~~agriculture, food and market's~~ Secretary of Agriculture, Food and Markets'
4 decision to the ~~environmental division~~ Environmental Division de novo.

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

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

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

15 Subchapter 9. Agricultural Water Quality Certification Training

16 § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

17 TRAINING; RULEMAKING

18 (a) The Secretary of Agriculture, Food and Markets shall adopt by
19 procedure 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:

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 by procedure under this section shall:

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

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

11 * * * Agricultural Water Quality;

12 Certification of Custom Applicators * * *

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

14 Subchapter 10. Certification of Custom Applicators of Manure,
15 Nutrients, or Sludge

16 § 4987. DEFINITIONS

17 As used in this subchapter:

18 (1) “Custom applicator” means a person who applies manure, nutrients,
19 or sludge to land and who charges or collects other consideration for the
20 service.

1 (2) “Manure” means livestock waste that may also contain bedding,
2 spilled feed, water, or soil.

3 (3) “Seasonal employee” means a person who:

4 (A) works for a custom applicator for 20 weeks or fewer in a
5 calendar year; and

6 (B) works in a job scheduled to last 20 weeks or fewer.

7 (4) “Sludge” means any solid, semisolid, or liquid generated from a
8 municipal, commercial, or industrial wastewater treatment plant or process,
9 water supply treatment plant, air pollution control facility, or any other such
10 waste having similar characteristics and effects.

11 § 4988. CERTIFICATION OF CUSTOM APPLICATOR

12 (a) The Secretary of Agriculture, Food and Markets shall adopt by rule a
13 process by which a custom applicator shall be certified to operate within the
14 State. The certification process shall require a custom applicator to complete
15 eight hours of training over each five-year period regarding:

16 (1) application methods or techniques to minimize the runoff of
17 land-applied manure, nutrients, or sludge to waters of the State; and

18 (2) identification of weather or soil conditions that increase the risk of
19 runoff of land-applied manure, nutrients, or sludge to waters of the State.

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

1 (c) A custom applicator certified under this section may train seasonal
2 employees in methods or techniques to minimize runoff to surface waters and
3 to identify weather or soil conditions that increase the risk of runoff. A custom
4 applicator that trains a seasonal employee under this subsection shall be liable
5 for damages done and liabilities incurred by a seasonal employee who
6 improperly applies manure, nutrients, or sludge.

7 (d) The requirements of this section shall not apply to an owner or operator
8 of a farm applying manure, nutrients, or sludge to a field that he or she owns or
9 controls.

10 * * * Stream Alteration; Agricultural Activities * * *

11 Sec. 11. 10 V.S.A. § 1021 is amended to read:

12 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

13 (a) A person shall not change, alter, or modify the course, current, or cross
14 section of any watercourse or of designated outstanding resource waters,
15 within or along the boundaries of this State either by movement, fill, or
16 excavation of ten cubic yards or more of instream material in any year, unless
17 authorized by the Secretary. A person shall not establish or construct a berm in
18 a flood hazard area or river corridor, as those terms are defined in subdivisions
19 752(3) and (11) of this title, unless permitted by the Secretary or constructed as
20 an emergency protective measure under subsection (b) of this section.

21 * * *

1 (f) This subchapter shall not apply to:

2 (1) accepted agricultural or silvicultural practices, as defined by the
3 Secretary of Agriculture, Food and Markets, or silvicultural activities subject
4 to accepted management practices adopted by the Commissioner of Forests,
5 Parks and Recreation, respectively; or

6 (2) agricultural activities implementing a U.S. Department of
7 Agriculture Natural Resource Conservation Service conservation practice or a
8 conservation practice approved by the Secretary of Agriculture, Food and
9 Markets.

10 * * *

11 Sec. 12. REPORT ON USE OF ACCEPTED AGRICULTURAL
12 PRACTICES AS A CONDITION OF PARTICIPATION IN USE
13 VALUE APPRAISAL

14 On or before January 15, 2016, the Agency of Agriculture, Food and
15 Markets (AAFM), after consultation with the Department of Forests, Parks and
16 Recreation and the Division of Property Valuation and Review (PVR) at the
17 Department of Taxes, shall submit to the House Committee on Fish, Wildlife
18 and Water Resources, the Senate Committee on Natural Resources and Energy,
19 the House Committee on Ways and Means, the Senate Committee on Finance,
20 the House Committee on Agriculture and Forest Products, and the Senate
21 Committee on Agriculture a report regarding compliance with the accepted

1 agricultural practices (AAPs) issued under 6 V.S.A. chapter 215 as a
2 requirement of eligibility for participation in the use value appraisal program.

3 The report shall include:

4 (1) A proposed plan for implementing a requirement that an owner of
5 agricultural land certify compliance with the AAPs in order to participate or
6 continue participation in the use value appraisal program. The plan shall
7 include:

8 (A) how the AAFM or PVR would record certifications of AAP
9 compliance;

10 (B) how the AAFM or PVR would enforce compliance with the
11 AAPs as a condition of participation in the use value appraisal program; and

12 (C) an estimate of the number of staff and other resources required by
13 the AAFM or PVR to implement, administer, and enforce the requirement of
14 compliance with AAPs as a condition of participation in the use value
15 appraisal program.

16 (2) An estimate of how certification of compliance with the AAPs
17 would impact the cost of the use value appraisal program to the State of
18 Vermont, including whether fewer parcels would qualify for enrollment in the
19 program.

1 * * * Agency of Natural Resources Basin Planning * * *

2 Sec. 13. 10 V.S.A. § 1253 is amended to read:

3 § 1253. CLASSIFICATION OF WATERS DESIGNATED,

4 RECLASSIFICATION

5 * * *

6 (d) ~~The~~ Through the process of tactical basin planning, the Secretary shall
7 determine what degree of water quality and classification should be obtained
8 and maintained for those waters not classified by the Board before 1981
9 following the procedures in sections 1254 and 1258 of this title. Those waters
10 shall be classified in the public interest. By January 1, 1993, the Secretary
11 shall prepare and maintain an overall surface water management plan to ensure
12 that the State water quality standards are met in all State waters. The surface
13 water management plan shall include a schedule for updating the tactical basin
14 plans. The Secretary, in consultation with regional planning commissions,
15 shall revise all ~~47~~ 15 basin plans by January 1, 2006, and update ~~them every~~
16 ~~five years~~ the basin plans on a five-year rotating basis thereafter. On or before
17 January ~~4~~ 15 of each year, the Secretary shall report to the House Committees
18 on Agriculture and Forest Products, on Natural Resources and Energy, and on
19 Fish, Wildlife and Water Resources, and to the Senate Committees on
20 Agriculture and on Natural Resources and Energy regarding the progress made
21 and difficulties encountered in revising basin plans. ~~By January 1, 1993, the~~

1 ~~Secretary shall prepare an overall management plan to ensure that the water~~
2 ~~quality standards are met in all State waters.~~ The report shall include a
3 schedule for the production of tactical basin plans in the subsequent calendar
4 year and a summary of actions to be taken over the subsequent three years.

5 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not
6 apply to the report to be made under this subsection.

7 (e) In determining the question of public interest, the Secretary shall give
8 due consideration to, and explain his or her decision with respect to, the
9 following:

- 10 (1) existing and obtainable water qualities;
- 11 (2) existing and potential use of waters for public water supply,
12 recreational, agricultural, industrial, and other legitimate purposes;
- 13 (3) natural sources of pollution;
- 14 (4) public and private pollution sources and the alternative means of
15 abating the same;
- 16 (5) consistency with the State water quality policy established in
17 10 V.S.A. § 1250;
- 18 (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
- 19 (7) need for and use of minimum streamflow requirements;
- 20 (8) federal requirements for classification and management of waters;
- 21 (9) consistency with applicable municipal, regional, and State plans; and

1 (10) any other factors relevant to determine the maximum beneficial use
2 and enjoyment of waters.

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

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

9 (h) The Secretary may contract with a regional planning commission to
10 assist in or to produce a basin plan under the timeline set forth in subsection (d)
11 of this section. When contracting with a regional planning commission to
12 assist in or produce a basin plan, the Secretary may require the regional
13 planning commission to:

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

16 (2) provide technical assistance and data collection activities to inform
17 municipal officials and the state in making water quality investment decisions;

18 (3) coordinate municipal planning and adoption or implementation of
19 municipal development regulations to better meet state water quality policies
20 and investment priorities;

1 (4) ensure regional and local input in State water quality policy
2 development and planning processes;

3 (5) assist the Secretary in implementing a project evaluation process to
4 prioritize water quality improvement projects within the region to ensure cost
5 effective use of State and federal funds;

6 (6) provide education to municipal officials and citizens regarding the
7 basin planning process.

8 * * * Stormwater Management * * *

9 Sec. 14. 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~~

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~~

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. By
6 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.

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~~

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;~~

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~~

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~~

1 ~~(H) 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~~

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~~

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:~~

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~~

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 local flooding, all of which have adverse impacts
9 on the 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 to develop a process that assures broad
14 participation; focuses upon the prevention of pollution; relies on structural
15 treatment only when necessary; establishes and maintains accountability;
16 tailors strategies to the region and the locale; assures an adequate funding
17 source; builds broadbased programs; provides for the evaluation and
18 appropriate evolution of programs; is consistent with the federal Clean Water
19 Act and the State water quality standards; and accords appropriate recognition
20 to the importance of community benefits that accompany an effective
21 stormwater runoff management program. In furtherance of these purposes, the

1 Secretary shall implement a stormwater permitting program. The stormwater
2 permitting program developed by the Secretary shall recognize that the runoff
3 of stormwater is different from the discharge of sanitary and industrial wastes
4 because of the influence of natural events of stormwater runoff, the variations
5 in characteristics of those runoffs, and the increased stream flows and natural
6 degradation of the receiving water quality 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 of practices, maintenance procedures, and other management
10 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) “Existing stormwater discharge” means a discharge of regulated
14 stormwater runoff that first occurred prior to June 1, 2002 and that is subject to
15 the permitting requirements of this chapter.

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

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

1 (6) “New stormwater discharge” means a new or expanded discharge of
2 regulated stormwater runoff, subject to the permitting requirements of this
3 chapter, that first occurs after June 1, 2002 and that has not been previously
4 authorized pursuant to this chapter.

5 (7) “Offset” means a State-permitted or -approved action or project
6 within a stormwater-impaired water that a discharger or a third person may
7 complete to mitigate the impacts that a discharge of regulated stormwater
8 runoff has on the stormwater-impaired water.

9 (8) “Redevelopment” means the construction or reconstruction of an
10 impervious surface where an impervious surface already exists when such new
11 construction involves substantial site grading, substantial subsurface
12 excavation, or substantial modification of an existing stormwater conveyance,
13 such that the total of impervious surface to be constructed or reconstructed is
14 greater than the minimum regulatory threshold. Redevelopment does not mean
15 the construction or reconstruction of impervious surface where impervious
16 surface already exists when the construction or reconstruction involves less
17 than 5,000 square feet. Redevelopment does not mean public road
18 management activities, including any crack sealing, patching, coldplaning,
19 resurfacing, reclaiming, or grading treatments used to maintain pavement,
20 bridges, and unpaved roads.

1 (9) “Regulated stormwater runoff” means precipitation, snowmelt, and
2 the material dissolved or suspended in precipitation and snowmelt that runs off
3 impervious surfaces and discharges into surface waters or into groundwater via
4 infiltration.

5 (10) “Stormwater impact fee” means the monetary charge assessed to a
6 permit applicant for the discharge of regulated stormwater runoff to a
7 stormwater-impaired water that mitigates a sediment load level or hydrologic
8 impact that the discharger is unable to control through on-site treatment or
9 completion of an offset on a site owned or controlled by the permit applicant.

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

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

15 (13) “Stormwater runoff” means precipitation and snowmelt that does
16 not infiltrate into the soil, including material dissolved or suspended in it, but
17 does not include discharges from undisturbed natural terrain or wastes from
18 combined sewer overflows.

19 (14) “Stormwater system” means the storm sewers; outfall sewers;
20 surface drains; manmade wetlands; channels; ditches; wet and dry bottom
21 basins; rain gardens; and other control equipment necessary and appurtenant to

1 the collection, transportation, conveyance, pumping, treatment, disposal, and
2 discharge of regulated stormwater runoff.

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

7 (16) “Water quality remediation plan” means a plan, other than a
8 TMDL, designed to bring an impaired water body into compliance with
9 applicable water quality standards in accordance with 40 C.F.R.
10 § 130.7(b)(1)(ii) and (iii).

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

16 (c) Prohibitions.

17 (1) A person shall not commence the construction of one acre or more of
18 new impervious surface without first obtaining a permit from the Secretary.

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

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

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

7 (5) A person shall not expand existing impervious surface by more than
8 5,000 square feet or redevelop more than 5,000 square feet of existing
9 impervious surface, such that the total resulting impervious area is greater than
10 one acre, without first obtaining a permit from the Secretary.

11 (d) Exemptions. No permit is required under this section for:

12 (1) stormwater runoff from farms subject to accepted agricultural
13 practices adopted by the Secretary of Agriculture, Food and Markets;

14 (2) stormwater runoff from concentrated animal feeding operations that
15 require a permit under subsection 1263(g) of this chapter;

16 (3) stormwater runoff from silvicultural activities subject to accepted
17 management practices adopted by the Commissioner of Forests, Parks and
18 Recreation; or

19 (4) stormwater systems that were permitted under this section and for
20 which a municipality has assumed full legal responsibility for that stormwater
21 system.

1 (e) State designation. The Secretary shall require a permit under this
2 section for a discharge or stormwater runoff from impervious surfaces upon a
3 designation by the Secretary that the treatment of the discharge or stormwater
4 runoff is necessary to reduce the adverse impacts to water quality of the
5 discharge or stormwater runoff taking into consideration the size of the
6 impervious surface, drainage patterns, hydraulic connectivity, existing
7 stormwater treatment, or other factors. The Secretary may make this
8 designation through the basin planning process or on a case-by-case basis.

9 (f) Rulemaking. The Secretary shall adopt rules to manage regulated
10 stormwater runoff. At a minimum the rules shall:

11 (1) Establish as the primary goals of the rules assuring compliance with
12 the Vermont Water Quality Standards and maintenance after development, as
13 nearly as possible, of the predevelopment runoff characteristics.

14 (2) Use the basin planning process to establish watershed-specific
15 priorities for the management of stormwater 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 that
7 municipality's separate storm sewer system permit.

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

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

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

20 (1) Be valid for a period of time, not to exceed ten years;

1 (2) For discharges of regulated stormwater in stormwater impaired
2 waters:

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

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

10 (ii) A discharge shall satisfy on-site the water quality, recharge,
11 and channel protection criteria set forth in the Stormwater Management
12 Manual that are determined to be technically feasible by an engineering
13 feasibility analysis conducted by the Agency and if the pollutant load from the
14 discharge approximates the natural runoff from an undeveloped field or open
15 meadow that is not used for agricultural activity.

16 (B) In which a TMDL or water quality remediation plan has been
17 adopted, require there is sufficient pollutant load allocations for the discharge.

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

1 (i) Disclosure of violations. The Secretary may, at his or her discretion and
2 as necessary to assure achievement of the goals of the program and compliance
3 with State law and the federal Clean Water Act, deny an application for the
4 discharge of regulated stormwater under this subsection if review of the
5 applicant’s compliance history indicates that the applicant is discharging
6 regulated stormwater in violation of this chapter or is the holder of an expired
7 permit for an existing discharge of regulated stormwater.

8 * * * Water Quality Data Coordination * * *

9 Sec. 15. 10 V.S.A. § 1284 is added to read:

10 § 1284. WATER QUALITY DATA COORDINATION

11 (a) To facilitate attainment or accomplishment of the purposes of this
12 chapter, the Secretary shall coordinate and assess all available data and science
13 regarding the quality of the waters of the State, including:

14 (1) light detection and ranging information data (LIDAR) identifying
15 water quality issues;

16 (2) stream gauge data;

17 (3) stream mapping, including fluvial erosion hazard maps;

18 (4) water quality monitoring or sampling data;

19 (5) cumulative stressors on a watershed, such as the frequency an
20 activity is conducted within a watershed or the number of stormwater or other
21 permits issued in a watershed; and

1 (6) any other data available to the Secretary.

2 (b) After coordination of the data required under subsection (a) of this
3 section, the Secretary shall:

4 (1) assess where additional data are needed and the best methods for
5 collection of such data;

6 (2) identify and map on a regional basis areas of the State that are
7 significant contributors to water quality problems or are in critical need of
8 water quality remediation or response.

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

11 * * * Water Quality Funding; Clean Water Fund; Impervious Surface
12 Assessment; Fertilizer Fee * * *

13 Sec. 16. 10 V.S.A. chapter 47, subchapter 7 is added to read:

14 Subchapter 7. Vermont Clean Water Fund
15 § 1387. 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 1388 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 impervious cover assessment established under
4 32 V.S.A. § 245; and

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 that address sources of
11 water pollution in waters listed as impaired on the list of waters established by
12 33 U.S.C. § 1313(d);

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

15 (3) to provide funding to programs or projects that address or repair
16 riparian conditions that increase the risk of flooding or pose a threat to life or
17 property.

18 (c) Unexpended balances and any earnings shall remain in the Fund from
19 year to year.

1 § 1388. CLEAN WATER FUND BOARD

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

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

6 (1) the Secretary of Administration or designee;

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

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

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

11 (5) the Secretary of Transportation or designee;

12 (6) two members of the public or the House of Representatives
13 appointed by the Speaker of the House;

14 (7) two members of the public or the Senate appointed by the
15 Committee on Committees; and

16 (8) two members of the public appointed by the Governor.

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

1 (d) Member terms. Members of the Clean Water Fund Board appointed by
2 the Governor shall serve initial terms of three years, members appointed by the
3 Speaker of the House shall serve initial terms of two years, and members
4 appointed by the Committee on Committees shall serve initial terms of one
5 year. Thereafter, each of the above appointed members shall serve a term of
6 three years. A vacancy shall be filled by the appointing authority for the
7 remainder of the unexpired term. An appointed member shall not serve more
8 than three consecutive three-year terms.

9 (e) Compensation. Public members of the Clean Water Fund Board may
10 receive compensation according to 32 V.S.A. § 1010(b).

11 (f) Powers and duties of the Clean Water Fund Board.

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

14 (A) to receive a proposals from the Secretaries of Agriculture, Food,
15 and Markets, of Commerce and Community Development, of Natural
16 Resources, and of Transportation on the appropriate expenditures of the Fund;

17 (B) to make recommendations to the Secretary of Administration
18 regarding the appropriate allocation of funds from the Clean Water Fund for
19 the purposes of developing the State budget; and

1 (C) to pursue and accept grants or other funding from any public or
2 private source and to administer such grants or funding consistent with their
3 terms.

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

5 (A) an annual revenue estimate and proposed budget for the Clean
6 Water Fund;

7 (B) measures for determining progress and effectiveness of
8 expenditures for clean water restoration efforts; and

9 (C) the annual Clean Water Investment Report required under section
10 1389 of this title.

11 (3) The Clean Water Fund Board shall solicit public comment and
12 consult with existing organizations and advisory committees devoted to
13 improving water quality in Vermont, including the Citizens Advisory
14 Committee of the Lake Champlain Basin Program.

15 (g) The Secretary of Administration shall give substantial deference to the
16 recommendations of allocations from the Clean Water Fund proposed by the
17 Clean Water Fund Board when developing the State budget.

18 § 1389. CLEAN WATER INVESTMENT REPORT

19 Beginning on January 15, 2016, and annually thereafter, the Clean Water
20 Fund Board shall publish a Clean Water Investment Report. The report shall
21 summarize all investments made by the Clean Water Fund Board and other

1 State agencies for clean water restoration over the past calendar year. The
2 report shall include expenditures from the Clean Water Fund, the General
3 Fund, the Transportation Fund, and any other State expenditures for clean
4 water restoration, regardless of funding source. The report shall document
5 progress or shortcomings in meeting established indicators for clean water
6 restoration. The report may also provide an overview of additional funding
7 necessary to meet objectives established for clean water restoration and
8 recommendations for additional revenue to meet those restoration objectives.

9 Sec. 17. 32 V.S.A. chapter 245 is added to read:

10 CHAPTER 245. IMPERVIOUS SURFACE ASSESSMENT

11 § 10501. DEFINITIONS

12 As used in this chapter:

13 (1) “Commercial property” means a real property that has a highest and
14 best use of providing goods and services for sale, including retail stores, malls,
15 motels, hotels, filling stations, restaurants, office buildings, bowling alleys, and
16 golf courses. Commercial property does not mean industrial property.

17 (2) “Commissioner” means the Commissioner of Taxes.

18 (3) “Farming” means:

19 (A) the cultivation or other use of land for growing food, fiber,
20 Christmas trees, maple sap, or horticultural and orchard crops;

1 (B) the raising, feeding, or management of livestock, poultry, fish, or
2 bees;

3 (C) the operation of greenhouses;

4 (D) the production of maple syrup;

5 (E) the on-site storage, preparation, production, and sale of fuel or
6 power from agricultural products principally produced on the farm; or

7 (F) the raising, feeding, or management of four or more equines
8 owned or boarded by the farmer, including training, showing, and providing
9 instruction and lessons in riding, training, and the management of equines.

10 (4) "Forestry" means a silvicultural operation or vacant land that is
11 primarily forested.

12 (5) "Impervious surface" means those manmade surfaces, including
13 paved and unpaved roads, parking areas, roofs, driveways, and walkways, from
14 which precipitation runs off rather than infiltrates.

15 (6) "Industrial property" means a property that has a highest and best
16 use of producing a product from raw materials, rather than a product or service
17 simply being sold. Industrial property includes all property used by a utility
18 for the provision of that regulated service, including a gas pipeline, water
19 treatment plant, or electric generation facility, but not administrative offices of
20 a utility.

1 (7) “Lake Champlain basin” means all property wholly or partially
2 within the municipal boundaries of the following municipalities: Alburgh, Isle
3 La Motte, North Hero, Grand Isle, South Hero, Highgate, Franklin, Berkshire,
4 Richford, Swanton, Sheldon, Enosburgh, Montgomery, St. Albans City,
5 St. Albans Town, Fairfield, Bakersfield, Georgia, Fairfax, Fletcher, Milton,
6 Westford, Underhill, Colchester, Essex, Jericho, Bolton, Burlington, South
7 Burlington, Williston, Richmond, Shelburne, St. George, Charlotte, Hinesburg,
8 Huntington, Buel’s Gore, Ferrisburgh, Monkton, Starksboro, Vergennes,
9 Panton, Waltham, New Haven, Bristol, Lincoln, Granville, Addison, Bridport,
10 Cornwall, Middlebury, Ripton, Shoreham, Orwell, Whiting, Salisbury,
11 Leicester, Goshen, Hancock, Hubbardton, Benson, Sudbury, Brandon,
12 Chittenden, Weybridge, West Haven, Fair Haven, Castleton, Pittsford, West
13 Rutland, Proctor, Rutland Town, Rutland City, Mendon, Killington, Poultney,
14 Middletown Springs, Ira, Clarendon, Shrewsbury, Wells, Tinmouth,
15 Wallingford, Mount Holly, Pawlet, Danby, Mount Tabor, Rupert, Dorset, Peru,
16 Waterville, Belvidere, Eden, Cambridge, Johnson, Hyde Park, Wolcott, Stowe,
17 Morristown, Elmore, Waterbury, Duxbury, Fayston, Warren, Waitsfield,
18 Roxbury, Middlesex, Moretown, Northfield, Montpelier, Berlin, Barre Town,
19 Barre City, Worcester, East Montpelier, Calais, Woodbury, Plainfield,
20 Marshfield, Cabot, Jay, Troy, Newport, Westfield, Lowell, Craftsbury,

1 Greensboro, Hardwick, Walden, Wheelock, Stannard, Peacham,
2 Williamstown, Orange, and Washington.

3 (8) “Parcel” means parcel as defined in section 4152 of this title.

4 § 10502. LIABILITY FOR PAYMENT

5 (a) There shall be an impervious cover assessment of \$200.00 per calendar
6 year imposed on each commercial and industrial parcel located within the Lake
7 Champlain basin that contains any amount of impervious surface except as
8 provided in subsection (b) of this section.

9 (b) The assessment established under subsection (a) of this section shall not
10 apply to property used for farming or forestry.

11 (c) The assessment established under subsection (a) of this section shall be
12 imposed on owners of real property on April 1 of each year and shall be paid
13 no later than April 15 of the following year.

14 (d) To the extent that they are not in conflict with the provisions of this
15 subchapter, the administrative provisions of chapters 103 and 151 of this title,
16 including those regarding payment, deficiency assessments, appeal, interest
17 and penalty, enforcement, and collection shall apply to the assessment imposed
18 by this subchapter.

1 Sec. 18. 6 V.S.A. § 366 is amended to read:

2 § 366. TONNAGE FEES

3 (a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers
4 distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~
5 fee at a rate of ~~\$0.25 cents~~ \$50.00 per ton.

6 (b) Persons distributing fertilizer shall report annually by January 15 for the
7 previous year ending December 31 to the ~~secretary~~ Secretary revealing the
8 amounts of each grade of fertilizer and the form in which the fertilizer was
9 distributed within this ~~state~~ State. Each report shall be accompanied with
10 payment and written permission allowing the ~~secretary~~ Secretary to examine
11 the person's books for the purpose of verifying tonnage reports.

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

16 (d) A ~~\$50.00~~ \$150.00 minimum tonnage fee shall be assessed on all
17 distributors who distribute fertilizers in this ~~state~~ State.

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

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

4 (g) All fees shall be deposited in the revolving fund created by section
5 364(e) of this title and used in accordance with its provisions.

6 * * * Eligibility for Ecosystem Restoration Program Assistance * * *

7 Sec. 19. ECOSYSTEM RESTORATION PROGRAM; ELIGIBILITY FOR
8 FINANCIAL ASSISTANCE

9 It is the policy of the State of Vermont that all municipal separate storm
10 sewer system (MS4) communities in the State shall be eligible for grants and
11 other financial assistance from the Agency of Natural Resources' Ecosystem
12 Restoration Program or any other State water quality financing program. A
13 project or proposal that is the subject of an application for a grant or other
14 assistance from the Agency of Natural Resources shall not be denied solely on
15 the basis that the project or proposal may be construed as a regulatory
16 requirement of the MS4 permit program.

17 * * * Shoreland Contractor Certification * * *

18 Sec. 20. VOLUNTARY SHORELAND EROSION CONTROL
19 CERTIFICATION PROGRAM

20 (a) Definitions. As used in this section:

1 (1) “Impervious surface” shall have the same meaning as in
2 10 V.S.A. § 1264.

3 (2) “Lake” means a body of standing water, including a pond or a
4 reservoir, which may have natural or artificial water level control. Private
5 ponds shall not be considered lakes.

6 (3) “Mean water level” means the mean water level of a lake as defined
7 in the Mean Water Level Rules of the Agency of Natural Resources adopted
8 under 29 V.S.A. § 410.

9 (4) “Shoreland area” means all land located within 250 feet of the mean
10 water level of a lake that is greater than 10 acres in surface area.

11 (b) Voluntary certification. The Agency of Natural Resources, in
12 consultation with the Associated General Contractors of Vermont, shall
13 develop an optional shoreland erosion control certification program. The
14 program shall include training related to the disturbance of soil, clearance of
15 vegetation, and construction of impervious surfaces of more than 1,000 square
16 feet in a shoreland area. The voluntary certification program shall end after
17 three years of operation.

18 (c) Report. After two years of operation of the certification program, the
19 Agency of Natural Resources shall report to the House and Senate Committees
20 on Natural Resources and Energy and the House Committee on Fish, Wildlife
21 and Water Resources regarding the voluntary shoreland erosion control

1 certification program created in subsection (b) of this section. The report shall

2 include:

3 (1) a general summary of the program's success, including an overview
4 of shoreland projects constructed by certified persons;

5 (2) the number of persons certified under the certification program;

6 (3) a recommendation of whether the State should continue the
7 voluntary certification program, including whether to make the program
8 mandatory; and

9 (4) any other recommendations for improving the program.

10 Sec. 21. EFFECTIVE DATES

11 This act shall take effect on July 1, 2015, except that:

12 (1) Sec. 5 (small farm certification) shall take effect on July 1, 2017; and

13 (2) Sec. 17 (impervious surface assessment) shall take effect on passage
14 and shall apply to the April 1, 2015 grand list.