

1 H.559

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water resources; enforcement

6 Statement of purpose of bill as introduced: This bill proposes to make
7 miscellaneous amendments to programs administered by the Department of
8 Environmental Conservation related to stormwater permitting, environmental
9 enforcement reporting, clean water investment reporting, mercury-added
10 motor vehicle components, and planning advances from the Special
11 Environmental Revolving Loan Fund.

12 An act relating to miscellaneous environmental subjects

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

14 ~~*** Stormwater Permitting ***~~

15 Sec. 1. 27 V.S.A. § 613(b) is amended to read:

16 (b) Beginning on July 1, 2004, and notwithstanding any law to the
17 contrary, no encumbrance on record title to real property or effect on
18 marketability of title shall be created by the failure of the holder of real
19 ~~property from which regulated stormwater runoff discharges to an impaired~~

1 ~~watershed to obtain, renew, or comply with the terms and conditions of a~~

2 pretransition stormwater discharge permit for a conveyance or refinancing,

3 provided that such holder:

4 (1) provides a notice of deferral of permit to the Secretary of Natural
5 Resources with a property description, the identity of the impaired watershed,
6 the permit number of any expired pretransition stormwater discharge permit
7 covering the property, and such other information as the Secretary may
8 require; and

9 (2) records in the land records a notice indicating, in an appropriate
10 form to be determined by the Secretary of Natural Resources, that at the time
11 of establishment of a general permit in the impaired watershed where the real
12 property is located, but ~~not later than June 30, 2018~~ on or before December 31,
13 2018, the mortgagor (in the case of a refinancing) or the grantee (in the case of
14 a conveyance) shall be subject to all applicable requirements of the water
15 quality remediation plan, TMDL, or watershed improvement permit
16 established under 10 V.S.A. chapter 47.

17 Sec. 2. 2012 Acts and Resolves No. 91, Sec. 3, as amended by 2016 Acts and
18 Resolves No. 73, Sec. 1, is further amended to read:

19 Sec. 3. REPEAL

20 27 V.S.A. § 613 (stormwater discharges during transition period;

21 ~~encumbrance on title) shall be repealed on June 30, 2018~~ December 31, 2018.

1 ~~restoration over the prior calendar fiscal year. The Report shall include~~
2 expenditures from the Clean Water Fund, the General Fund, the Transportation
3 Fund, and any other State expenditures for clean water restoration, regardless
4 of funding source.

5 * * * Mercury-Added Motor Vehicle Components * * *

6 Sec. 5. 10 V.S.A. § 7108 is added to read:

7 § 7108. MERCURY-ADDED MOTOR VEHICLE COMPONENTS

8 (a) Applicability. This section applies to:

9 (1) a motor vehicle recycler or scrap metal recycling facility in the
10 State; and

11 (2) a manufacturer of motor vehicles sold in this State.

12 (b) Mercury-added switch removal requirements. A motor vehicle recycler
13 that accepts end-of-life motor vehicles shall remove mercury-added vehicle
14 switches prior to crushing, shredding, or other scrap metal processing and prior
15 to conveying for crushing, shredding, or other scrap metal processing.

16 (1) Motor vehicle recyclers shall maintain a log sheet of switches
17 removed from end-of-life motor vehicles and shall provide such log to the
18 Agency annually or upon request of the Agency.

19 (2) Switches, including switches encased in light or brake assemblies,
20 shall be collected, stored, transported, and handled in accordance with all
21 applicable State and federal laws.

22 ~~(c) Manufacturer mercury-added switch recovery program. A~~

1 ~~manufacturer of vehicles sold in this State, individually or as part of a group,~~

2 shall implement a mercury-added vehicle switch recovery program that

3 includes the following:

4 (1) educational material to assist motor vehicle recyclers in identifying
5 mercury-added vehicle switches and safely removing, properly handling, and
6 storing switches;

7 (2) storage containers provided at no cost to all motor vehicle recyclers
8 identified by the Agency, suitable for the safe storage of switches, including
9 switches encased in light or brake assemblies;

10 (3) collection, packaging, shipping, and recycling of mercury-added
11 switches, including switches encased in light or brake assemblies, provided to
12 all motor vehicle recyclers at no cost and that comply with all applicable State
13 and federal laws; and

14 (4) a report on or before December 1 annually to the Agency that
15 includes the total number of mercury-added switches recovered in the
16 program, the names of the motor vehicle recyclers and the number of switches
17 removed from each, and the total amount of mercury collected during the
18 previous 12-month period.

19 (d) Agency responsibility.

20 (1) The Agency shall provide workshops and other training to motor
21 vehicle recyclers to inform them of the requirements of this section.

1 ~~(2) The Agency may develop, by procedure, exemptions of certain~~
2 mercury-added vehicle switches and other components from the requirements
3 of this section, including mercury-added switches that are inaccessible due to
4 motor vehicle damage and anti-lock brake switches in certain motor vehicle
5 types that are difficult or labor-intensive to remove.

6 Sec. 6. APPLICATION OF ENACTMENT

7 On December 31, 2017, the former 10 V.S.A. § 7108, requiring establishing
8 mercury-added vehicle component requirements, as established by 2006 Acts
9 and Resolves No. 117, was repealed. Sec. 5 of this act reenacts 10 V.S.A.
10 § 7108 in substantially the same form as the section was enacted by 2006 Acts
11 and Resolves No. 117. Notwithstanding the requirements of 1 V.S.A. § 214,
12 the requirements of 10 V.S.A. § 7108 as enacted by Sec. 5 of this act shall
13 apply retroactively to December 31, 2017 and shall be implemented
14 prospectively from that date.

15 Sec. 7. REPEAL OF MERCURY-ADDED MOTOR VEHICLE

16 COMPONENT REQUIREMENTS

17 10 V.S.A. § 7108 (mercury-added vehicle component requirements) shall be
18 repealed on January 15, 2022.

19 * * * Clean Water State Revolving Loan Fund * * *

20 Sec. 8. FORGIVENESS OF REPAYMENT OF PLANNING ADVANCES

21 ~~The Secretary of Natural Resources shall not require a municipality to~~

1 ~~repay engineering planning advances awarded under 24 V.S.A. chapter 120,~~

2 subchapter 2 if the Secretary determines that:

3 (1) the engineering planning advance was awarded prior to September
4 1, 2011; and

5 (2) due to the effects of Tropical Storm Irene, documentation is no
6 longer available to establish the engineering planning scope and associated
7 construction project for which the engineering planning advance was awarded.

8 * * * Effective Date * * *

9 Sec. 9. EFFECTIVE DATE

10 ~~This act shall take effect on passage.~~

* * * *Stormwater Permitting* * * *

Sec. 1. 27 V.S.A. § 613(b) is amended to read:

(b) Beginning on July 1, 2004, and notwithstanding any law to the contrary, no encumbrance on record title to real property or effect on marketability of title shall be created by the failure of the holder of real property from which regulated stormwater runoff discharges to an impaired watershed to obtain, renew, or comply with the terms and conditions of a pretransition stormwater discharge permit for a conveyance or refinancing, provided that such holder:

(1) provides a notice of deferral of permit to the Secretary of Natural Resources with a property description, the identity of the impaired watershed,

the permit number of any expired pretransition stormwater discharge permit covering the property, and such other information as the Secretary may require; and

(2) records in the land records a notice indicating, in an appropriate form to be determined by the Secretary of Natural Resources, that at the time of establishment of a general permit in the impaired watershed where the real property is located, but not later than ~~June 30, 2018~~ 180 days after the date of adoption by the Agency of Natural Resources of the stormwater rule pursuant to 10 V.S.A. § 1264, the mortgagor (in the case of a refinancing) or the grantee (in the case of a conveyance) shall be subject to all applicable requirements of the water quality remediation plan, TMDL, or watershed improvement permit established under 10 V.S.A. chapter 47.

Sec. 2. 2012 Acts and Resolves No. 91, Sec. 3, as amended by 2016 Acts and Resolves No. 73, Sec. 1, is further amended to read:

Sec. 3. REPEAL

27 V.S.A. § 613 (stormwater discharges during transition period; encumbrance on title) shall be repealed ~~on June 30, 2018~~ 180 days after the date the Agency of Natural Resources adopts the stormwater rule pursuant to 10 V.S.A. § 1264.

** * * Environmental Enforcement Report * * **

Sec. 3. 10 V.S.A. § 8017 is amended to read:

§ 8017. ANNUAL REPORT

The Secretary and the Attorney General shall report annually to the President Pro Tempore of the Senate, the Speaker of the House, the House Committee on ~~Fish, Wildlife and Water Resources~~ Natural Resources, Fish, and Wildlife, and the Senate ~~and House Committees~~ Committee on Natural Resources and Energy. The report shall be filed ~~no later than January 15~~ on or before February 15, on the enforcement actions taken under this chapter, and on the status of citizen complaints about environmental problems in the State. The report shall describe, at a minimum, the number of violations, the actions taken, the disposition of cases, the amount of penalties collected, and the cost of administering the enforcement program. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

** * * Clean Water Investment Report * * **

Sec. 4. 10 V.S.A. § 1389a(a) is amended to read:

(a) Beginning on January 15, 2017, and annually thereafter, the Secretary of Administration shall publish the Clean Water Investment Report. The Report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the prior ~~calendar~~ fiscal year. The Report shall include expenditures from the Clean Water Fund, the General Fund, the

Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source.

** * * Mercury-Added Motor Vehicle Components * * **

Sec. 5. 10 V.S.A. § 7108 is added to read:

§ 7108. MERCURY-ADDED MOTOR VEHICLE COMPONENTS

(a) Applicability. This section applies to:

(1) a motor vehicle recycler or scrap metal recycling facility in the State; and

(2) a manufacturer of motor vehicles sold in this State.

(b) Mercury-added switch removal requirements. A motor vehicle recycler that accepts end-of-life motor vehicles shall remove mercury-added vehicle switches prior to crushing, shredding, or other scrap metal processing and prior to conveying for crushing, shredding, or other scrap metal processing.

(1) Motor vehicle recyclers shall maintain a log sheet of switches removed from end-of-life motor vehicles and shall provide such log to the Agency annually or upon request of the Agency.

(2) Switches, including switches encased in light or brake assemblies, shall be collected, stored, transported, and handled in accordance with all applicable State and federal laws.

(c) Manufacturer mercury-added switch recovery program. A manufacturer of vehicles sold in this State, individually or as part of a group, shall implement a mercury-added vehicle switch recovery program that

includes the following:

(1) educational material to assist motor vehicle recyclers in identifying mercury-added vehicle switches and safely removing, properly handling, and storing switches;

(2) storage containers provided at no cost to all motor vehicle recyclers identified by the Agency, suitable for the safe storage of switches, including switches encased in light or brake assemblies;

(3) collection, packaging, shipping, and recycling of mercury-added switches, including switches encased in light or brake assemblies, provided to all motor vehicle recyclers at no cost and that comply with all applicable State and federal laws; and

(4) a report on or before December 1 annually to the Agency that includes the total number of mercury-added switches recovered in the program, the names of the motor vehicle recyclers and the number of switches removed from each, and the total amount of mercury collected during the previous 12-month period.

(d) Agency responsibility.

(1) The Agency shall provide workshops and other training to motor vehicle recyclers to inform them of the requirements of this section.

(2) The Agency may develop, by procedure, exemptions of certain mercury-added vehicle switches and other components from the requirements

of this section, including mercury-added switches that are inaccessible due to motor vehicle damage and anti-lock brake switches in certain motor vehicle types that are difficult or labor-intensive to remove.

Sec. 6. APPLICATION OF ENACTMENT

On December 31, 2017, the former 10 V.S.A. § 7108, requiring establishing mercury-added vehicle component requirements, as established by 2006 Acts and Resolves No. 117, was repealed. Sec. 5 of this act reenacts 10 V.S.A. § 7108 in substantially the same form as the section was enacted by 2006 Acts and Resolves No. 117. Notwithstanding the requirements of 1 V.S.A. § 214, the requirements of 10 V.S.A. § 7108 as enacted by Sec. 5 of this act shall apply retroactively to December 31, 2017 and shall be implemented prospectively from that date.

*Sec. 7. REPEAL OF MERCURY-ADDED MOTOR VEHICLE
COMPONENT REQUIREMENTS*

10 V.S.A. § 7108 (mercury-added vehicle component requirements) shall be repealed on December 31, 2021.

** * * Basin Planning * * **

Sec. 8. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following

the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forestry, on Natural Resources ~~and Energy, and on Fish, Wildlife and Water Resources,~~ Fish, and Wildlife, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

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

(A) identify waters that should be reclassified outstanding resource

waters or that should have one or more uses reclassified under section 1252 of this title;

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

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

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

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

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

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

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

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

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission or negotiate and issue performance grants to the Vermont Association of Planning and Development

Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When ~~contracting~~ negotiating a scope of work with a ~~regional planning commission~~ or the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or produce a basin plan, the Secretary may require the ~~regional planning commission~~ Vermont Association of Planning and Development Agencies or the Natural Resources Conservation Council to:

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

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

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

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure

cost effective use of State and federal funds.

** * * Clean Water State Revolving Loan Fund * * **

Sec. 8a. FORGIVENESS OF REPAYMENT OF PLANNING ADVANCES

The Secretary of Natural Resources shall not require a municipality to repay engineering planning advances awarded under 24 V.S.A. chapter 120, subchapter 2 if the Secretary determines that:

(1) the engineering planning advance was awarded prior to September 1, 2011; and

(2) due to the effects of Tropical Storm Irene, documentation is no longer available to establish the engineering planning scope and associated construction project for which the engineering planning advance was awarded.

** * * Effective Date * * **

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.