

1 H.526

2 Introduced by Committee on Fish, Wildlife and Water Resources

3 Date:

4 Subject: Conservation and development; lakes; shorelands; impervious surface

5 Statement of purpose of bill as introduced: This bill would require the Agency  
6 of Natural Resources (ANR) to adopt by January 1, 2015 rules establishing  
7 shoreland protection standards for areas—known as protected shoreland  
8 areas—within 250 feet of the mean water level of a lake. Beginning January 1,  
9 2015, a permit would be required from ANR for new or expanded impervious  
10 surface or cleared area in a protected shoreland area. Municipalities with a  
11 shoreland protection bylaw or ordinance in existence on January 1, 2015 shall  
12 be delegated authority to permit new or expanded impervious surface or  
13 cleared area if certain conditions are met. A municipality that has not adopted  
14 a shoreland protection bylaw or ordinance by January 1, 2015 may be  
15 delegated authority for the permitting of construction, creation, or expansion of  
16 impervious surface or cleared area within a protected shoreland area if the  
17 municipality adopts a shoreland protection bylaw or ordinance after January 1,  
18 2015 and meets certain conditions. Agricultural activities, silvicultural  
19 activities, transportation activities, electric utility activity, and specified  
20 activities permitted by the Agency of Natural Resources would not be required  
21 to obtain a lake shoreland permit if certain conditions are met.

1 An act relating to the establishment of lake shoreland protection standards

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

3 Sec. 1. LEGISLATIVE FINDINGS AND LEGISLATIVE INTENT

4 The General Assembly finds and declares that:

5 (1) Vermont's lakes are among the State's most valuable and fragile  
6 economic and natural resources, and the protection of naturally vegetated  
7 shorelands adjacent to lakes is necessary to prevent water quality degradation,  
8 maintain healthy habitat, and promote flood resilience.

9 (2) Naturally vegetated shorelands and implementation of best  
10 management practices in lands adjacent to lakes function to:

11 (A) intercept and infiltrate surface water runoff, wastewater, and  
12 groundwater flows from upland sources;

13 (B) remove or minimize the effects of nutrients, sediment, organic  
14 matter, pesticides, and other pollutants;

15 (C) moderate the temperature of shallow water habitat;

16 (D) maintain the conditions that sustain the full support of aquatic  
17 biota, wildlife, and aquatic habitat uses; and

18 (E) promote stability and flood resilience by protecting shoreline  
19 banks from erosion.

20 (3) Healthy lakes and adjacent shorelands:

21 (A) support Vermont's tourism economy and promote widespread  
22 recreational opportunities, including swimming, boating, fishing, and hunting;

1           (B) support property values and tax base; and

2           (C) reduce human health risks.

3           (4) According to the Agency of Natural Resources Water Quality  
4 Remediation, Implementation, and Funding Report in 2013, review of the  
5 development, protection, and stabilization of shorelands is necessary because  
6 of the importance of shorelands to the health of lakes.

7           (5) A lake or pond of more than 10 acres is located in 184 of the State's  
8 251 municipalities. However, only 48 municipalities have shoreland zoning  
9 that requires vegetative cover. Scientifically based standards for impervious  
10 surface and cleared area adjacent to lakes are necessary to protect and maintain  
11 the integrity of water quality and aquatic and shoreland habitat, while also  
12 allowing for reasonable development of shorelands.

(6) *The shorelands of the state owned by private persons remain private*  
*property, and this act does not extend the common-law public trust doctrine to*  
*private shoreland that is not currently public trust land.* The State has an  
interest in protecting lakes and adjacent shorelands in a manner that respects  
existing rights of property owners to control access to land they own in lake  
shorelands, and the regulation of the creation of new impervious surface or  
cleared area in the shoreland areas should not and does not affect the ability of  
property owners to control access to their lands.

13           (7) In order to fulfill the State's role as trustee of its waters and promote  
14 public health, safety, and the general welfare, it is in the public interest for the

1 General Assembly to establish lake shoreland protection standards for  
2 impervious surface and cleared area in the shorelands adjacent to the State's  
3 lakes.

4 Sec. 2. 10 V.S.A. chapter 49A is added to read:

5 CHAPTER 49A. LAKE SHORELAND PROTECTION STANDARDS

6 § 1441. PURPOSE

7 The purposes of this chapter shall be to:

8 (1) provide clear and adaptable standards for the creation of impervious  
9 surface or cleared area in lands adjacent to lakes;

10 (2) prevent degradation of water quality in lakes and preserve natural  
11 stability of shoreline;

12 (3) protect aquatic biota and protect habitat for wildlife and aquatic life;

13 (4) mitigate, minimize, and manage any impact of new impervious  
14 surface and new cleared area on the lakes of the State;

15 (5) mitigate the damage that floods and erosion cause to development,  
16 structures, and other resources in the lands adjacent to lakes;

17 (6) protect shoreland owners' access to, views of, and use of the State's  
18 lakes; and

19 (7) preserve and further the economic benefits and values of lakes and  
20 their adjacent shorelands.

21 § 1442. DEFINITIONS

22 As used in this chapter:

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

2           (2) “Best management practices” means approved activities,  
3 maintenance procedures, and other practices to prevent or reduce the effects of  
4 impervious surface or cleared area on water quality and natural resources.

5           (3) “Cleared area” means an area where existing vegetative cover, soil,  
6 or duff is permanently removed or altered.

7           (4) “Disturbance” means the removal or alteration of existing  
8 vegetation, soil, or duff in a protected shoreland area.

9           (5) “Duff” means leaf litter plus small fragments of plants and organic  
10 debris that provide a spongy substrate that absorbs the energy of falling water  
11 and allows runoff to infiltrate soil.

12           (6) “Expansion” means an increase or addition of impervious surface or  
13 cleared area.

14           (7) “Impervious surface” shall have the same meaning as in section  
15 1264 of this title.

16           (8) “Lake” means a body of standing water, including a pond or a  
17 reservoir, which may have natural or artificial water level control. Private  
18 ponds shall not be considered lakes.

19           (9) “Mean water level” means the mean water level of a lake as defined  
20 in the Mean Water Level Rules of the Agency of Natural Resources adopted  
21 under 29 V.S.A. § 410.

22

(10) “Off-site mitigation” means a practice or activity that:

(A) mitigates the adverse impacts of construction, creation, or expansion of impervious surface or cleared area on the water quality of lakes or on protected shoreland areas; and

(B) occurs on property other than the property where the construction, creation, or expansion of impervious surface or cleared area is proposed.

1           ~~(10)~~ (11) “Private pond” means a body of standing water that is a natural  
2           water body of not more than 20 acres located on property owned by one person  
3           or an artificial water body of any size located on property owned by one  
4           person. A “private pond” shall include a reservoir specifically constructed for  
5           one of the following purposes: snowmaking storage, golf course irrigation,  
6           stormwater management, or fire suppression.

~~(11)~~ (12) “Private road” means a road or street other than a highway, as that term is defined in 19 V.S.A. § 1(12), that is owned by one or more persons and that is used as a means of travel from a highway to more than one parcel of land.

~~(11)~~ ~~(12)~~ (13) “Protected shoreland area” means all land located within 250 feet of the mean water level of a lake that is greater than 10 acres in surface area.

7           ~~(12)~~ ~~(13)~~ (14) “Secretary” means the Secretary of Natural Resources or  
8           the Secretary’s duly authorized representative.

1           ~~(13)~~ ~~(14)~~ ~~(15)~~ “Stormwater runoff” shall have the same meaning as in  
2           section 1264 of this title.

3           ~~(14)~~ ~~(15)~~ ~~(16)~~ “Vegetative cover” means mixed vegetation within the  
4           protected shoreland area, consisting of trees, shrubs, groundcover, and duff.

5           § 1443. IMPERVIOUS SURFACE OR CLEARED AREA IN A

6                     PROTECTED SHORELAND AREA; PERMIT REQUIRED

7           (a) Permit required.

8                     (1) Except as provided under section 1445 or 1446 of this title,  
9           beginning January 1, 2015, a person shall not conduct any of the following  
10           activities in a protected shoreland area without a permit from the Secretary:

11                     (A) construct more than 500 square feet and less than one acre of  
12           new impervious surface;

13                     (B) create more than 500 square feet of new cleared area; and

14                     (C) expand impervious surface or cleared area if the expansion of  
15           existing impervious surface or cleared area in the protected shoreland area  
16           results in an increase of more than 500 square feet of impervious surface or  
17           cleared area. Impervious surface or cleared area may be expanded by up to  
18           500 square feet without obtaining a permit, provided that the aggregate amount  
19           of all expansion shall not exceed 20 percent of the protected shoreland area of  
20           the lot on which it is located.

21                     (2) The Secretary shall issue a permit under this section if the proposed  
22           impervious surface or cleared area does not negatively impact water quality

1 and complies with the lake shoreland protection standards adopted under  
2 section 1444 of this title.

*(3) When the emergency repair, repair, and replacement of a private road or highway, as that term is defined in 19 V.S.A. § 1(2), results in the construction, creation, or expansion of impervious surface or cleared area on a property adjacent to the private road or highway, the impervious surface or cleared area constructed or created on the adjacent property shall not be calculated as square footage of impervious surface or cleared area for purposes of permitting under subdivision (a)(1) of this subsection.*

*(4) Under this chapter, the area of constructed, created, or expanded impervious surface or cleared area shall be the square footage as measured on a horizontal plane.*

3 (b) General permit.

4 (1) The Secretary shall adopt a general permit under which a person  
5 who requires a permit under this section may seek coverage. The general  
6 permit shall be available to classes or categories of construction of impervious  
7 surface or creation of cleared area that present low risk of harm to the water  
8 quality of surface waters or protected shoreland areas.

9 (2) The general permit adopted under this section shall be consistent  
10 with the lake shoreland protection standards adopted under this chapter and  
11 shall include terms and conditions appropriate for the construction of

1 impervious surface or creation of cleared area that requires a permit under this  
2 section.

3 (3) Each general permit adopted by the Agency shall have a term of no  
4 more than five years. Prior to the expiration of each general permit, the  
5 Secretary shall review the terms and conditions of the general permit and may  
6 adopt subsequent general permits with the same or different conditions as  
7 necessary to carry out the purposes of this chapter.

8 (4) Coverage under the general permit shall be for an indefinite term,  
9 provided that the person granted coverage under the general permit complies  
10 with the terms of the general permit and takes no action for which a permit is  
11 required under this section. A permit holder's coverage under the general  
12 permit shall not expire every five years.

13 (5) An applicant for coverage under the general permit shall provide  
14 notice, on a form provided by the Secretary, to the municipal clerk of the  
15 municipality in which the construction of impervious surface or creation of  
16 cleared area is located at the time the application is filed with the Secretary.

17 (6) The Secretary shall provide an opportunity for written comment,  
18 regarding whether an application for coverage under the general permit  
19 complies with the terms and conditions of the general permit, for 10 days  
20 following receipt of the application.

21 (7) The Secretary may require any applicant for coverage under the  
22 general permit to submit any additional information that the Secretary

1 considers necessary and may refuse to grant coverage under the general permit  
2 until the requested information is furnished and evaluated.

3 (c) Individual permit.

4 (1) The Secretary shall adopt by rule requirements or conditions for an  
5 individual permit for the construction of impervious surface or creation of  
6 cleared area regulated under this section.

7 (2) The Secretary may require a person who applies for coverage under  
8 a general permit to obtain an individual permit for construction of impervious  
9 surface or creation of cleared area regulated under this section if the proposed  
10 activity presents a significant risk of harm to protected shoreland areas or the  
11 water quality of a lake adjacent to a protected shoreland area.

12 (3) The individual permit shall be issued for an indefinite term, provided  
13 that the person granted coverage under the individual permit complies with the  
14 terms of the general permit and takes no subsequent action for which a permit  
15 is required under this chapter.

16 (d) Recorded permits. Coverage under a general permit or an individual  
17 permit issued under this section shall, for purposes of having the permit run  
18 with the land, be recorded in the land records of the municipality in which the  
19 impervious surface or cleared area is located.

20 § 1444. LAKE SHORELAND PROTECTION STANDARDS; RULES

21 (a) Lake shoreland protection standards; adoption. On or before January 1,  
22 2015, the Secretary shall adopt by rule standards for the construction of

1 impervious surface or the creation of cleared area in a protected shoreland area.  
2 The lake shoreland protection standards shall be designed to achieve the  
3 purposes of this chapter set forth in section 1441 of this title, while also  
4 accommodating construction, creation, or expansion of impervious surface or  
5 cleared area in protected shoreland areas.

6 (b) Content of lake shoreland protection standards. The standards required  
7 under subsection (a) of this section shall:

8 (1) establish best management practices for the construction of  
9 impervious surfaces or the creation of cleared area in a protected shoreland  
10 area, including standards for:

11 (A) managing vegetative cover that may be required as a best  
12 management practice in order to ensure that some level of the required  
13 vegetative cover is maintained in the protected shoreland area;

14 (B) allowing reasonable use of the protected shoreland area subject to  
15 a vegetative cover requirement for construction, creation, or expansion of  
16 impervious surface or cleared area;

17 (C) minimizing and mitigating the creation of impervious surface or  
18 cleared area in a protected shoreland area;

(D) authorizing off-site mitigation as a best management practice  
when compliance with vegetative cover or other best management practices is  
not technically feasible on a property within a protected shoreland area,  
provided that any authorized mitigation shall be conducted within the

watershed of the lake in which the proposed construction, creation, or expansion of impervious surface or cleared area will occur. If, within one year of the proposed construction, creation, or expansion of impervious surface or cleared area, the applicant cannot identify a suitable off-site mitigation project within the watershed of the lake where construction, creation, or expansion will occur, the Secretary shall authorize completion of the off-site project in an alternative lake watershed.

1           ~~(D)~~ (E) minimizing and mitigating the impacts from impervious  
2           surfaces or cleared areas on water quality, aquatic biota, wildlife and aquatic  
3           habitat, or protected shoreland areas; and

4           ~~(E)~~ (F) designing and maintaining driveways, patios, and similar  
5           impervious surfaces so that stormwater runoff is minimized;

6           (2) authorize the establishment and maintenance of paths and  
7           recreational space in a protected shoreland area, provided that the path or  
8           recreational space is designed and managed to minimize stormwater runoff;

9           (3) authorize the establishment and maintenance of gardens in protected  
10          shoreland areas, provided that the gardens are designed and managed to  
11          minimize stormwater runoff;

12          (4) authorize the construction and maintenance of accessory structures  
13          in a protected shoreland area subject to size requirements established by the  
14          Secretary;

*(5) for areas of the State where mosquito populations create a public health hazard, as that term is defined in 18 V.S.A. § 2, physical practices or activities that create cleared area or remove vegetative cover in order to reduce mosquito breeding habitat, provided that any activity authorized under this subdivision shall comply with the Vermont wetlands rules;*

~~(5)~~ (6) establish criteria for evaluating applications for a permit under this chapter;

1       ~~(6)~~ (7) establish the requirements for the processing of applications for a  
2       permit under this chapter, including public notice and comment periods.

3       § 1445. MUNICIPAL DELEGATION

4       (a) Municipalities with existing shoreland bylaws or ordinances. The  
5       Secretary shall delegate to a municipality authority to permit the construction,  
6       creation, or expansion of impervious surface or cleared area under this chapter  
7       if the municipality adopted a bylaw or ordinance on or before January 1, 2015,  
8       that:

9               (1) requires vegetative cover or other best management practices  
10              designed to prevent degradation of water quality in lakes; to minimize or  
11              mitigate impervious surface and cleared areas in protected shoreland areas  
12              adjacent to lakes; or to minimize or mitigate damage from floods and erosion;

13              (2) sets forth conditions on the construction and expansion of existing  
14              impervious surface or cleared area; and

1           (3) provides for administration and enforcement of the bylaw or  
2 ordinance.

3           (b) Municipalities that adopt shoreland bylaws or ordinances after  
4 January 1, 2015. The Secretary may delegate authority to permit the  
5 construction, creation, or expansion of impervious surface or cleared area  
6 under this chapter to a municipality that has not adopted a shoreland bylaw or  
7 ordinance as of January 1, 2015 if:

8           (1) the municipality adopts a bylaw or ordinance regulating construction  
9 of impervious surface or creation of cleared area in a protected shoreland area  
10 after January 1, 2015; and

11           (2) the Secretary determines that the municipality adopted a municipal  
12 bylaw or ordinance that is at least as stringent as the shoreland protection  
13 standards adopted by the Secretary under section 1444 of this title.

14           (c) Delegation agreement.

15           (1) Delegation under subsection (a) or (b) of this section shall be by  
16 agreement between the Secretary and the delegated municipality. The  
17 delegation agreement shall set the terms for revocation of delegation.

18           (2) Under the delegation agreement, the Secretary and the municipality  
19 may agree, in instances where a delegated municipality does not or cannot address  
20 noncompliance, that the Secretary, after consultation with the municipality, may  
21 institute enforcement proceedings under 10 V.S.A chapter 201 for failure to  
22 comply with the lake shoreland protection standards.

1           (3) The delegation agreement shall require the municipality to:

2                   (A) have or establish a process for accepting, reviewing, and  
3 processing applications and issuing permits for construction of impervious  
4 surface or creation of cleared area in protected shoreland areas;

5                   (B) take timely and appropriate enforcement actions;

6                   (C) commit to reporting annually to the Secretary on a form and date  
7 determined by the Secretary;

8                   (D) comply with all other requirements of the rules adopted under  
9 this chapter; and

10                  (E) cure any defects in such bylaw or ordinance or in the  
11 administration or enforcement of such bylaw or ordinance upon notice of a  
12 defect from the Secretary.

13                  (4) A municipality that seeks delegation under subsection (a) or (b) of  
14 this section shall be presumed to satisfy the requirements of this subsection for  
15 a permit process and enforcement if the municipality has designated a  
16 municipal zoning administrator or other municipal employee or official as  
17 responsible for the permitting and enforcement of the construction, creation, or  
18 expansion of impervious surface or cleared area within the municipality.

~~(d) Historic and urban development. A municipality that does not qualify  
for delegation under subsection (a) or (b) of this section shall not require a  
permit under section 1443 of this title for construction, creation, or expansion  
of impervious surface or cleared area within all or a portion of a protected~~

~~shoreland area within the municipality's boundaries if~~ *In a municipality that does not qualify for delegation under subsection (a) or (b) of this section, construction, creation, or expansion of impervious surface or cleared area within a protected shoreland area shall not require a permit under this chapter if:*

1           (1) the area in which the impervious surface or cleared area will be  
2           constructed, created, or expanded has been designated by municipal bylaw for:

3                     (A) development according to historic development patterns; or

4                     (B) redevelopment of land that has been subject to construction of  
5           impervious surface or to disturbance prior to the July 1, 2013 by industrial or  
6           urban development; and

7           (2) the municipality has adopted a shoreland bylaw or ordinance or has  
8           implemented best management practices intended to prevent degradation of  
9           water quality in lakes; to minimize or mitigate disturbances in lands adjacent to  
10           lakes; or to minimize or mitigate damage from floods and erosion.

11           § 1446. AGRICULTURE; SILVICULTURE; TRANSPORTATION; AND

12                     ELECTRIC UTILITY PROJECTS; DEVELOPMENT AND

13                     SUBDIVISION

14           The following activities in a protected shoreland area do not require a  
15           permit under section 1443 of this title:

16                     (1) Silvicultural activities. Silvicultural activities in a protected  
17           shoreland area if the silvicultural activities are in compliance with:

1           (A) a forest management plan, approved by the Commissioner of  
2 Forests, Parks and Recreation, for the land in the protected shoreland area in  
3 which the silvicultural activities occur;

4           (B) the rules adopted by the Secretary under section 754 of this title  
5 for silvicultural activities in a flood hazard area; and

6           (C) the accepted management practices adopted by the Commissioner  
7 of Forests, Parks and Recreation under section 2622 of this title.

8           (2) Agricultural activities. Agricultural activities in protected shoreland  
9 areas if:

10           (A) the agricultural activities comply with the Secretary's rules under  
11 section 754 of this title for agricultural activities in a flood hazard area;

12           (B) the agricultural activities comply with the rules adopted by the  
13 Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215  
14 regarding agricultural water quality, including accepted agricultural practices,  
15 best management practices, medium and small farm operation, and large farm  
16 operation; and

17           (C) any proposed expansion or modification to a farm structure, as  
18 that term is defined in the accepted agricultural practices, in a protected  
19 shoreland area shall be reviewed by the Secretary of Agriculture, Food and  
20 Markets in coordination with the Secretary of Natural Resources under a  
21 memorandum of understanding.

1 ~~(3) State and municipal transportation infrastructure. The routine~~  
2 ~~maintenance, emergency repair, repair, and replacement of transportation~~  
3 ~~infrastructure by the Vermont Agency of Transportation or by a municipality.~~

*(3) Transportation infrastructure and private roads. The maintenance, emergency repair, repair, and replacement of:*

*(A) transportation infrastructure by the Vermont Agency of Transportation or by a municipality; or*

*(B) a private road that does not require a permit under section 1264 of this title, provided that emergency repair, repair, and replacement of the private road shall comply with the applicable water quality best management practices within the Vermont Agency of Transportation town road and bridge standards for controlling stormwater runoff and direct discharges to state waters. The requirement to comply with the water quality best management practices shall apply even if the municipality in which the private road is located has not adopted the town road and bridge standards. Under this subdivision, expansion of a private road in order to allow for passage of emergency vehicles shall be considered repair that does not require a permit under section 1443 of this title.*

(4) Wastewater systems and potable water supplies. Installation, maintenance, repair, or replacement of a wastewater system or potable water supply permitted by the Agency of Natural Resources under chapter 64 of this title.

1           (5) Stormwater treatment. Discharges of stormwater, stormwater  
2 treatment facilities or practices, including repair or maintenance, permitted by  
3 the Agency of Natural Resources under section 1264 of this title.

4           (6) Electric utility projects and utility lines.

5           (A) The construction of electric utility projects that are subject to  
6 30 V.S.A. § 248 or chapter 151 of this title.

7           (B) The routine repair and maintenance of utility lines and structures  
8 including vegetation maintenance in utility line corridors, in a protected  
9 shoreland area that are subject to 30 V.S.A. § 248, chapter 151 of this title, or a  
10 vegetation management plan approved by the Agency in a protected shoreland  
11 area. Vegetation management practices in a protected shoreland area shall be  
12 performed in accordance with a vegetation management plan approved by the  
13 Agency of Natural Resources.

14           (C) The emergency repair of utility lines and poles in protected  
15 shoreland areas, provided that such repair minimizes adverse impacts to  
16 vegetation in the protected shoreland area.

17           (7) Dredge and fill. Dredge or fill activities operating under a permit  
18 issued by the U.S. Army Corps of Engineers under 33 U.S.C. § 1344.

19 § 1447. COORDINATION OF AGENCY OF NATURAL RESOURCES'

20 PERMITTING OF ACTIVITIES IN PROTECTED SHORELAND

21 AREAS

1        (a) Coordination of permitting in protected shoreland area. During  
2        technical review of a permit application for a wastewater system, potable water  
3        supply, stormwater discharge, or stormwater treatment facility that is proposed  
4        to be located in a protected shoreland area and that does not require a permit  
5        under this chapter, the Agency division issuing the wastewater system, potable  
6        water supply, stormwater discharge, or stormwater treatment facility permit  
7        shall consult with the Agency's Lakes and Ponds Section regarding practices  
8        or activities that could reduce the impact of the proposed activity on the  
9        protected shoreland area or water quality of lakes adjacent to the protected  
10       shoreland area.

11       (b) Agency guidance or procedure. The Agency may formalize the  
12       consultation process required by this section in a guidance document or  
13       internal agency procedure.

*(c) Agency lands. All lands held by the Agency within a protected*  
*shoreland area shall be managed according to the requirements of this chapter*  
*when consistent and not in conflict with applicable federal requirements for*  
*the management of a parcel of land held by the Agency.*

14       § 1448. MUNICIPAL ZONING BYLAW OR ORDINANCE

15       (a) Construction of impervious surface or creation of cleared area occurring  
16       outside protected shoreland areas. Construction of impervious surface or  
17       creation of cleared area occurring outside a protected shoreland area shall  
18       conform to duly adopted municipal zoning bylaws and applicable municipal

1 ordinances and shall not be subject to regulation by the Secretary of Natural  
2 Resources under this chapter.

3 (b) Existing municipal bylaws and ordinances. The shoreland protection  
4 standards adopted by the Secretary of Natural Resources under section 1444 of  
5 this title are in addition to existing municipal bylaws and ordinances, and  
6 proposed construction of impervious surface or creation of cleared area within  
7 the protected shoreland area shall comply with all relevant, existing municipal,  
8 state, and federal requirements.

9 Sec. 3. 10 V.S.A. § 6086(d) is amended to read:

10 (d) The ~~land use panel~~ Land Use Panel may by rule allow the acceptance of  
11 a permit or permits or approval of any state agency with respect to subdivisions  
12 (a)(1) through (5) of this title or a permit or permits of a specified municipal  
13 government with respect to subdivisions (a)(1) through (7) and (9) and (10) of  
14 this title, or a combination of such permits or approvals, in lieu of evidence by  
15 the applicant. A district commission, in accordance with rules adopted by the  
16 ~~land use panel~~ Land Use Panel, shall accept determinations issued by a  
17 development review board under the provisions of 24 V.S.A. § 4420, with  
18 respect to local Act 250 review of municipal impacts. The acceptance of such  
19 approval, positive determinations, permit, or permits shall create a presumption  
20 that the application is not detrimental to the public health and welfare with  
21 respect to the specific requirement for which it is accepted. In the case of  
22 approvals and permits issued by the ~~agency of natural resources~~ Agency of

1 Natural Resources, technical determinations of the ~~agency~~ Agency shall be  
2 accorded substantial deference by the commissions. The acceptance of  
3 negative determinations issued by a development review board under the  
4 provisions of 24 V.S.A. § 4420, with respect to local Act 250 review of  
5 municipal impacts shall create a presumption that the application is detrimental  
6 to the public health and welfare with respect to the specific requirement for  
7 which it is accepted. Any determinations, positive or negative, under the  
8 provisions of 24 V.S.A. § 4420 shall create presumptions only to the extent  
9 that the impacts under the criteria are limited to the municipality issuing the  
10 decision. Such a rule may be revoked or amended pursuant to the procedures  
11 set forth in 3 V.S.A., chapter 25, the Vermont Administrative Procedure Act.  
12 The rules adopted by the ~~land use panel~~ Land Use Panel shall not approve the  
13 acceptance of a permit or approval of such an agency or a permit of a  
14 municipal government unless it satisfies the appropriate requirements of  
15 subsection (a) of this section. A district commission shall accept a lake  
16 shoreland protection permit issued by the Agency of Natural Resources under  
17 chapter 49A of this title. The acceptance of a lake shoreland protection permit  
18 shall create a presumption that the permitted activity satisfies the requirements  
19 of subdivision (a)(1)(F) of this section for shorelines in a protected shoreland  
20 area, as that term is defined in section 1442 of this title.

1 Sec. 4. 10 V.S.A. § 8003(a) is amended to read:

2 (a) The ~~secretary~~ Secretary may take action under this chapter to enforce  
3 the following statutes:

4 \* \* \*

5 (22) 10 V.S.A. chapter 164A, collection and disposal of  
6 mercury-containing lamps; ~~and~~

7 (23) 24 V.S.A. § 2202a, relating to a municipality's adoption and  
8 implementation of a solid waste implementation plan that is consistent with the  
9 state solid waste plan; and

10 (24) 10 V.S.A. chapter 49A, relating to lake shoreland protection  
11 standards.

12 Sec. 5. 10 V.S.A. § 8503 is amended to read:

13 § 8503. APPLICABILITY

14 (a) This chapter shall govern all appeals of an act or decision of the  
15 ~~secretary~~ Secretary, excluding enforcement actions under chapters 201 and 211  
16 of this title and rulemaking, under the following authorities and under the rules  
17 adopted under those authorities:

18 (1) The following provisions of this title:

19 \* \* \*

20 (R) chapter 32 (flood hazard areas).

21 (S) chapter 49A (lake shoreland protection standards).

22 \* \* \*

1 Sec. 6. PUBLIC PARTICIPATION IN DEVELOPMENT OF LAKE  
2 SHORELAND PROTECTION STANDARDS; REPORT

3 (a) In addition to the public participation requirements of 3 V.S.A.  
4 chapter 25 and prior to submitting a proposed rule to the Secretary of State  
5 under 3 V.S.A. § 838, the Secretary of Natural Resources shall engage in an  
6 expanded public participation process with affected stakeholders and other  
7 interested persons in a dialogue about intent, method, and content of rules  
8 required under 10 V.S.A. § 1443 regarding construction, creation, or expansion  
9 of impervious surface or cleared area in protected shoreland areas of lakes.  
10 The Secretary of Natural Resources is encouraged to use workshops, focused  
11 work groups, dockets, meetings, or other forms of communication to meet the  
12 participation requirements of this section.

13 (b) On or before September 1, 2013, the Secretary of Natural Resources  
14 shall commence rulemaking to establish standards for the construction,  
15 creation, or expansion of impervious surface or cleared area in protected  
16 shoreland areas of lakes.

17 (c) On or before April 15, 2014, the Secretary of Natural Resources shall  
18 submit to the House Committee on Fish, Wildlife and Water Resources and the  
19 Senate Committee on Natural Resources and Energy a copy of the rules  
20 required under 10 V.S.A. § 1443 regarding the regulation of construction,  
21 creation, or expansion of impervious surface or cleared area in protected  
22 shoreland areas of lakes. The report shall include a summary of the process

- 1 followed by the Secretary of Natural Resources in developing the rules,  
2 including a summary of how the Secretary complied with the requirements of  
3 subsection (a) of this section.

*Sec. 6a. AGENCY OF NATURAL RESOURCES REPORT ON LAKE*

*SHORELAND PROTECTION*

*On or before December 15, 2013, the Secretary of Natural Resources shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the House and Senate Committees on Appropriations a report regarding implementation of pending or proposed Agency of Natural Resources' water quality initiatives.*

*The report shall include:*

*(1) a summary of how the regulation of construction, creation, or expansion of impervious surface or cleared area in protected shoreland areas will be coordinated with other Agency of Natural Resources water quality initiatives;*

*(2) a proposal for how the Agency will quantify the contribution to improved water quality in the State from the regulation of construction, creation, or expansion of impervious surface or cleared area in a protected shoreland area; and*

*(3) a recommendation for a prioritized plan on how to fund water quality initiatives in the State, including an estimate of how much regulation*

*would cost and any revenue source, such as permit fees, that would be used to  
pay for the cost.*

1      Sec. 7. EFFECTIVE DATE

2      This act shall take effect on July 1, 2013.