

1 H.261

2 Introduced by Representative Tate of Mendon

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water resources; stormwater;

6 municipal roads; legacy stormwater

7 Statement of purpose of bill as introduced: This bill proposes to provide that
8 compliance with the municipal roads stormwater general permit and the legacy
9 stormwater general permit shall not be required in a municipality in which
10 every water or water segment within the municipal boundaries is meeting the
11 Vermont water quality standards and no water or water segment is listed as
12 impaired.

13 An act relating to application of stormwater permitting to municipalities

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

15 Sec. 1. 10 V.S.A. § 1264 is amended to read:

16 § 1264. STORMWATER MANAGEMENT

17 * * *

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

19 * * *

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

4 * * *

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

9 * * *

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

13 * * *

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

18 * * *

19 (c) Prohibitions.

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

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

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

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

13 (5) A person shall not expand existing impervious surface by more than
14 5,000 square feet, such that the total resulting impervious area is greater than
15 one acre, without first obtaining a permit from the Secretary.

16 (6)(A) In accordance with the schedule established under subdivision
17 (g)(2) of this section, a municipality shall not discharge stormwater from a
18 municipal road without first obtaining:

19 (i) an individual permit;

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

1 (iii) coverage under a municipal separate storm sewer system
2 permit that implements the technical standards and criteria established by the
3 Secretary for stormwater improvements of municipal roads.

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

6 (7) In accordance with the schedule established under subdivision (g)(3)
7 of this section, a person shall not discharge stormwater from impervious
8 surface of three or more acres in size without first obtaining an individual
9 permit or coverage under a general permit issued under this section if the
10 discharge was never previously permitted or was permitted under an individual
11 permit or general permit that did not incorporate the requirements of the 2002
12 Stormwater Management Manual or any subsequently adopted Stormwater
13 Management Manual.

14 (d) Exemptions.

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

16 (A) Stormwater runoff from farms in compliance with agricultural
17 practices adopted by the Secretary of Agriculture, Food and Markets, provided
18 that this exemption shall not apply to construction stormwater permits required
19 by subdivision (c)(4) of this section.

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

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

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

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

15 (3) No permit is required under subdivision (c)(6) or (7) of this section
16 in a municipality in which every water or water segment within the municipal
17 boundaries is meeting the Vermont water quality standards and no water or
18 water segment is listed as impaired.

19 * * *

1 (g) General permits.

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

5 (2)(A) The Secretary shall issue on or before December 31, 2017, a
6 general permit for discharges of regulated stormwater from municipal roads.
7 Under the municipal roads stormwater general permit, the Secretary shall:

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

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

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

15 (III) the date by which each municipality shall establish a plan
16 for implementation of stormwater improvements that prioritizes stormwater
17 improvements according to criteria established by the Secretary under the
18 general permit; and

19 (IV) the date by which each municipality shall implement
20 stormwater improvements of municipal roads according to a municipal
21 implementation plan.

1 (ii) Establish criteria and technical standards, such as best
2 management practices, for implementation of stormwater improvements of
3 municipal roads.

4 (iii) Establish criteria for municipal prioritization of stormwater
5 improvements of municipal roads. The Secretary shall base the criteria on the
6 water quality impacts of a stormwater discharge, the current state of a
7 municipal road, the priority of a municipal road or stormwater project in any
8 existing transportation capital plan developed by a municipality, and the
9 benefits of the stormwater improvement to the life of the municipal road.

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

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

15 (C) All municipalities shall apply for coverage under the municipal
16 road general permit on or before July 1, 2021.

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

19 (3) On or before January 1, 2018, the Secretary shall issue a general
20 permit under this section for discharges of stormwater from impervious surface
21 of three or more acres in size, when the stormwater discharge previously was

1 not permitted or was permitted under an individual permit or general permit
2 that did not incorporate the requirements of the 2002 Stormwater Management
3 Manual or any subsequently adopted Stormwater Management Manual. Under
4 the general permit, the Secretary shall:

5 (A) Establish a schedule for implementation of the general permit by
6 geographic area of the State. The schedule shall establish the date by which an
7 owner of impervious surface shall apply for coverage under subdivision (g)(3)
8 of this section. The schedule established by the Secretary shall require an
9 owner of impervious surface subject to permitting under this subdivision to
10 obtain coverage by the following dates:

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

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

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

18 (C) Require that a discharge of stormwater from impervious surface
19 subject to the requirements of this section comply with the standards of
20 subsection (h) of this section for redevelopment of or renewal of a permit for
21 existing impervious surface.

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

4 * * *

5 Sec. 2. MUNICIPAL STORMWATER COMPLIANCE; TRANSITION

6 If a water or water segment of the State is designated impaired and that
7 water or water segment is located in a municipality exempt from the municipal
8 roads stormwater general permit and legacy stormwater general permit under
9 10 V.S.A. § 1264(d)(3), the Agency of Natural Resources shall include the
10 municipality on the implementation schedule for each general permit, provided
11 that the Agency shall schedule implementation by the municipality not earlier
12 than one year from the date the water or water segment was designated
13 impaired.

14 Sec. 3. EFFECTIVE DATE

15 This act shall take effect on July 1, 2017.