

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 526 entitled “An act relating to the establishment of lake
4 shoreland protection standards” respectfully reports that it has considered the
5 same and recommends that the Senate propose to the House that the bill be
6 amended by striking all after the enacting clause and inserting in lieu thereof
7 the following:

8 Sec. 1. LEGISLATIVE FINDINGS AND LEGISLATIVE INTENT

9 The General Assembly finds and declares that:

10 (1) Vermont’s lakes are among the State’s most valuable and fragile
11 economic and natural resources, and the protection of naturally vegetated
12 shorelands adjacent to lakes is necessary to prevent water quality degradation,
13 maintain healthy habitat, and promote flood resilience.

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

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

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

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

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

3 (E) promote stability and flood resilience by protecting shoreline
4 banks from erosion.

5 (3) Healthy lakes and adjacent shorelands:

6 (A) support Vermont’s tourism economy and promote widespread
7 recreational opportunities, including swimming, boating, fishing, and hunting;

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

9 (C) reduce human health risks.

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

14 (5) A lake or pond of more than 10 acres is located in 184 of the State’s
15 251 municipalities. However, only 48 municipalities have shoreland zoning
16 that requires vegetative cover. Scientifically based standards for impervious
17 surface and cleared area adjacent to lakes are necessary to protect and maintain
18 the integrity of water quality and aquatic and shoreland habitat, while also
19 allowing for reasonable development of shorelands.

20 (6) The shorelands of the state owned by private persons remain private
21 property, and this act does not extend the common-law public trust doctrine to

1 private shoreland that is not currently public trust land. The State has an
2 interest in protecting lakes and adjacent shorelands in a manner that respects
3 existing rights of property owners to control access to land they own in lake
4 shorelands, and the regulation of the creation of new impervious surface or
5 cleared area in the shoreland areas should not and does not affect the ability of
6 property owners to control access to their lands.

7 (7) In order to fulfill the State’s role as trustee of its waters and promote
8 public health, safety, and the general welfare, it is in the public interest for the
9 General Assembly to establish lake shoreland protection standards for
10 impervious surface and cleared area in the shorelands adjacent to the State’s
11 lakes.

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

13 CHAPTER 49A. LAKE SHORELAND PROTECTION STANDARDS

14 § 1441. PURPOSE

15 The purposes of this chapter shall be to:

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

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

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

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

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

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

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

9 § 1442. DEFINITIONS

10 As used in this chapter:

11 (1) "Agency" means the Agency of Natural Resources.

12 (2) "Best management practices" means approved activities,
13 maintenance procedures, and other practices to prevent or reduce the effects of
14 impervious surface or cleared area on water quality and natural resources.

15 (3) "Cleared area" means an area where existing vegetative cover, soil,
16 tree canopy, or duff is permanently removed or altered. Cleared area shall not
17 mean management of vegetative cover conducted according to the
18 requirements of section 1447 of this title.

19 (4) "Duff" means leaf litter plus small fragments of plants and organic
20 debris that provide a spongy substrate that absorbs the energy of falling water
21 and allows runoff to infiltrate soil.

1 (5) “Expansion” means an increase or addition of impervious surface or
2 cleared area.

3 (6) “Grass lawn” means land planted in continuous plant coverage of
4 grasses and similar plants that are closely and regularly mowed. “Grass lawn”
5 does not include pasture cropland, land used to grow sod, or any other land
6 used for agricultural production.

7 (7) “Habitable structure” means any enclosed roofed structure that is
8 used for residential, commercial, or industrial purposes that is fit for people to
9 enter and utilize

10 **Or**

11 (7) “Habitable structure” means a permanent assembly of materials built
12 for the support, shelter, or enclosure of persons, animals, goods, or property,
13 including a dwelling, a commercial or industrial building, and driveways,
14 decks, and patios attached or appurtenant to a dwelling or commercial or
15 industrial building.

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

19 (9) “Lake” means a body of standing water, including a pond or a
20 reservoir, which may have natural or artificial water level control. Private
21 ponds shall not be considered lakes.

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

4 (11) “Parcel” means a portion of land or a tract of land with defined
5 boundaries created by dividing the land by sale, gift, lease, mortgage,
6 foreclosure, court-ordered partition or decree, or filing of a plat, plan, or deed
7 in the records of the municipality where the act of division occurred.

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

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

18 (14) “Project” means an act or activity that results in cleared area or the
19 creation of impervious surface in a protected shoreland area.

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

1 (16) “Secretary” means the Secretary of Natural Resources or the
2 Secretary’s duly authorized representative.

3 (17) “Slope” means the vertical rise divided by the horizontal run of a
4 place expressed as a percentage.

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

9 (19) “Vegetative cover” means mixed vegetation within the protected
10 shoreland area, consisting of trees, shrubs, groundcover, and duff. “Vegetative
11 cover” shall not mean grass lawns, noxious weeds designated by the Secretary
12 of Agriculture, Food and Markets under 6 V.S.A. chapter 84, or nuisance
13 plants, such as poison ivy and poison oak, designated by the Secretary of
14 Natural Resources.

15 § 1443. INDIVIDUAL PERMIT REQUIREMENT FOR IMPERVIOUS

16 SURFACE OR CLEARED AREA IN A PROTECTED

17 SHORELAND AREA

18 (a) Permit requirement. A person shall not create cleared area or
19 impervious surface in a protected shoreland area without a permit from the
20 Secretary, except for activities authorized to occur without a permit under
21 section 1446 of this title.

1 (b) Permit issuance. The Secretary shall issue a permit under this section if
2 the proposed impervious surface or cleared area meets the requirements of
3 sections 1444 or 1445 of this title.

4 (c) Permit process.

5 (1) A person applying for a permit shall do so on a form provided by the
6 Secretary. The application shall be posted on the Agency’s website.

7 (2) A person applying for a permit shall provide notice, on a form
8 provided by the Secretary, to the municipal clerk of the municipality in which
9 the construction of impervious surface or creation of cleared area is located at
10 the time the application is filed with the Secretary.

11 (3) The Secretary shall provide an opportunity for written comment,
12 regarding whether an application complies with the requirements of this
13 chapter or any rule adopted by the Secretary, for 30 days following receipt of
14 the application.

15 (d) Permit term. Individual permits issued under this section shall be for an
16 indefinite term, provided that the permittee complies with the requirements of
17 the permit and takes no additional action for which an individual permit is
18 required.

19 (e) Recording. A permit or registration issued under this chapter shall, for
20 the purposes of having the permit or registration run with the land, be recorded

1 in the land records of the municipality in which the impervious surface or
2 cleared area is located.

3 § 1444. PERMIT STANDARDS

4 (a) Permit standards; generally. Except for permits issued under section
5 1445 of this title, the Secretary shall issue a permit under this chapter if the
6 permit applicant demonstrates that:

7 (1) cleared area or impervious surface shall be located at least 100 feet
8 from the mean water level, except for projects that provide public recreational
9 access;

10 (2) cleared area or impervious surface within the protected shoreland
11 area shall be located on a site:

12 (A) with a slope of less than 20 percent; or

13 (B) that the permit applicant demonstrates will have a stable slope
14 with minimal erosion and minimal negative impacts to water quality;

15 (3)(A) no more than 20 percent of the protected shoreland area where
16 the project is located shall consist of impervious surface or cleared area; or

17 (B) the permit applicant shall demonstrate that best management
18 practices will be used to manage, treat, and control erosion due to stormwater
19 runoff from that portion of impervious surface or cleared area that exceeds 20
20 percent of the protected shoreland area;

1 (4)(A) no more than 40 percent of the protected shoreland area where
2 the project is located shall consist of cleared area, including area cleared for
3 the purposes of creating impervious surface; or

4 (B) the permit applicant shall demonstrate that best management
5 practices will be used to provide erosion control, bank stability, and wildlife
6 habitat functionally equivalent to that which would be provided by clearing
7 less than 40 percent of the shoreland protection area;

8 (5) within 100 feet of the mean water level, vegetative cover shall be
9 managed according to the requirements of section 1447 of this title.

10 (b) Repair of highway or private road. When the repair, emergency repair,
11 or replacement of a private road or highway, as that term is defined in
12 19 V.S.A. § 1(2), results in the construction, creation, or expansion of
13 impervious surface or cleared area on a property adjacent to the private road or
14 highway, the impervious surface or cleared area constructed or created on the
15 adjacent property shall not be calculated as square footage of impervious
16 surface or cleared area for purposes of permitting or registration under this
17 section.

18 (c) Calculation of area. Under this chapter, the area of constructed, created,
19 or expanded impervious surface or cleared area shall be the square footage as
20 measured on a horizontal plane.

21

1 § 1445. NONCONFORMING PARCELS; PERMIT STANDARDS

2 (a) Permit for nonconforming parcels. A permit applicant shall comply
3 with the requirements of subsection (b) of this section if the applicant cannot
4 meet the standards required under section 1444 of this title on a parcel of land
5 in existence on July 1, 2014, due to one of the following limitations:

6 (1) parcel size;

7 (2) the site characteristic of the parcel, including presence of highway or
8 rights of way and soil type; or

9 (3) application of municipal setback requirement in a municipal bylaw
10 adopted on or before July 1, 2014.

11 (b) Permit standards for nonconforming parcels.

12 (1) For a parcel on which there is no habitable structure, the cleared area
13 or impervious surface shall be as far as possible from the mean water level, and
14 at a minimum shall be no less than 25 feet from the mean water level.

15 [Question: What is the feasibility of the “as far as possible”
16 standards?]

17 (2) For a parcel on which a habitable structure is located, the expansion
18 of any portion of the structure within 100 feet of the mean water level shall be
19 on the side of the structure farthest from the lake, unless the Secretary
20 determines that:

1 (A) expansion on the side of the structure farthest from the lake is not
2 possible due to site characteristics, site limitations, or limitations under an
3 existing municipal bylaw;

4 (B) expansion on an alternate side of the structure will not negatively
5 impact water quality; and

6 (C) the structure is not expanded toward the mean water level.

7 [Question; Expansion on sides of structure. What about new
8 impervious surface or cleared area on nonconforming parcel with a
9 structure. What is a habitable structure, is it a camper or trailer? Does
10 this language allow ANR to address all types of nonconforming lots, not
11 just do to lot size, but to situations such as roads bisecting the property,
12 ledge, etc.?)

13 (b) Public recreational access. Projects that provide public recreational
14 access shall not be required to comply with the requirements of subsection (a)
15 of this section.

16 (c) Vegetation maintenance on nonconforming parcels. A permit issued
17 under this section for creation of cleared area or impervious surface on a
18 nonconforming parcel shall not require compliance with the requirements of
19 section 1447 for the management of vegetative cover.

20 (d) Application process. An applicant for a permit under this section shall
21 submit to the Secretary a form that identifies the basis of the nonconformity on

1 the parcel. The Secretary shall issue a permit under this section upon a
2 determination that no reasonable, cost effective alternative exists that would
3 allow creation of impervious surface or cleared area in a manner that complies
4 with the permit standards set forth under section 1444 of this title.

5 § 1446. REGISTERED PROJECTS; EXEMPTIONS FROM PERMITTING

6 (a)(1) Registered projects. The following projects in a protected shoreland
7 area do not require a permit under section 1444 or 1445 of this title:

8 (A) The creation of no more than 100 square feet of impervious
9 surface or cleared within 100 feet of the mean water level, provided that:

10 (i) the owner of the property on which the impervious surface or
11 cleared area is created registers with the Secretary, on a form provided by the
12 Secretary that contains the name of the property owner, the address of the
13 property, and a certification that the project meets the requirements of this
14 subdivision (a)(2);

15 (ii) the impervious surface or cleared area is located at least 25
16 feet from the mean water level; and

17 (iii) vegetative cover in the protected shoreland area shall be
18 managed according to the requirements of section 1447 of this title.

19 (B) The creation of 500 square feet or less of impervious surface,
20 cleared area, or a combination of impervious surface and cleared area,
21 provided that:

1 (i) the impervious surface or cleared area is at least 100 feet from
2 the mean water level;

3 (ii) any proposed cleared area or area within the protected
4 shoreland area where an impervious surface shall be sited has a slope of less
5 than 20 percent;

6 (iii) after the completion of the project, the protected shoreland
7 area shall consist of no more than 20 percent impervious surface; and

8 (iv) after the completion of the project, the protected shoreland
9 area shall consist of no more than 40 percent cleared area, including any area
10 cleared for the purposes of creating impervious surface.

11 (2) Limit on registration per parcel. A person shall not use the
12 registration process under this subsection to create more than a maximum total
13 per parcel of:

14 (A) 100 square feet of impervious surface or cleared area within
15 100 feet of the mean water level; or

16 (B) 500 square feet of impervious surface or cleared area within the
17 protected shoreland area that is at least 100 feet from the mean water level.

18 (3) Effect of registration. A registration shall take effect 15 days after
19 being filed with the Secretary, unless the Secretary requests that the person
20 registering submit additional information that the Secretary considers

1 necessary or the Secretary notifies the person registering that an individual
2 permit is required.

3 (4) Term. Registrations shall be for an indefinite term, provided that the
4 person complied with the requirements of this subsection and takes no action
5 for which an individual permit is required.

6 (b) Exemptions. The following activities in a protected shoreland area do
7 not require a permit under section 1444 or 1445 of this title:

8 (1) Management of vegetative cover. Management of vegetative cover
9 conducted in compliance with section 1447 of this title.

10 (2) Maintenance of lawns. The maintenance, but not the enlargement,
11 of lawns, gardens, landscaped areas, and beaches in existence as of January 1,
12 2014.

13 (3) Creation of footpaths. The creation of one footpath per parcel with a
14 width of no greater than six feet that provides access to the mean water level.

15 **[Question—size of the footpath?]**

16 (4) Construction within footprint. Construction within the footprint of
17 an impervious surface, existing as of January 1, 2014, that does not result in a
18 net increase in the amount of impervious surface on a parcel.

19 (5) Silvicultural activities. Silvicultural activities in a protected
20 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 accepted management practices adopted by the Commissioner
5 of Forests, Parks and Recreation under section 2622 of this title.

6 (6) Agricultural activities. Agricultural activities in protected shoreland
7 areas if:

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

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

18 **[Question—Exemptions for Agriculture?]**

19 (7) Transportation infrastructure and private roads. The maintenance,
20 emergency repair, repair, and replacement of:

1 (A) Transportation infrastructure by the Vermont Agency of
2 Transportation or by a municipality.

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

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

18 (9) Stormwater treatment. Discharges of stormwater, stormwater
19 treatment facilities or practices, including repair or maintenance, permitted by
20 the Agency of Natural Resources under section 1264 of this title.

21 (10) Electric utility projects and utility lines.

1 (A) The construction of electric utility projects that are subject to
2 30 V.S.A. § 248 or chapter 151 of this title.

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

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

13 (11) Act 250 permit. Projects which have received a permit pursuant to
14 chapter 151 of this title.

15 (12) Designated downtowns and village centers. Projects in downtowns
16 and village centers designated pursuant to 24 V.S.A. chapter 76A.

17 (13) Historic and urban development. In a municipality that does not
18 qualify for delegation under section 1448 of this title, construction, creation, or
19 expansion of impervious surface or cleared area within a protected shoreland
20 area shall not require a permit under this chapter, provided that:

1 (A) 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 (i) development according to historic development patterns; or

4 (ii) redevelopment of land that has been subject to construction of
5 impervious surface or to clearing prior to the July 1, 2014 by industrial or
6 urban development; and

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

11 **[Questions—Exemption for land intersected by highway? Retain**
12 **historic and urban exemption?]**

13 (c) Application of vegetative cover requirements. Activities authorized
14 under subdivisions (b)(2)–(13) of this section shall not be required to comply
15 with the requirements for the management of vegetative cover under section
16 1447 of this title.

17 § 1447. LAKE SHORELAND VEGETATION PROTECTION

18 STANDARDS

19 (a) Within 100 feet of the mean water level, cutting of trees is allowed
20 provided that a well-distributed stand of trees and other natural vegetation is
21 maintained. Vegetation management that occurs within the protected

1 shoreland area and that is conducted according to the requirements of this
2 section shall not be counted toward the cleared area on a parcel.

3 (b) A “well-distributed stand of trees adjacent to a lake” shall be defined as
4 maintaining a minimum rating score of 12, in each 25-foot by 25-foot area
5 within 100 feet of the mean water level, as determined by the following rating
6 system.

7	<u>(1) Diameter of tree at 4-1/2 feet above</u>	<u>Points</u>
8	<u>ground level (inches)</u>	
9	<u>2-< 4 in.</u>	<u>1</u>
10	<u>4-< 8 in.</u>	<u>2</u>
11	<u>8-< 12 in.</u>	<u>4</u>
12	<u>12 in. or greater</u>	<u>8</u>

13 (2) The following shall govern in applying this point system:

14 (A) 25-foot by 25-foot plots shall be established within 100 feet of
15 the mean water level for vegetation management purposes.

16 (B) Each successive plot must be adjacent to but not overlap a
17 previous plot.

18 (C) Any plot not containing the required points must have no
19 vegetative cover removed unless the removal is allowed pursuant to a
20 registration or individual permit.

1 (D) Any plot containing the required points may have trees removed
2 down to the minimum points allowed.

3 (E) Existing vegetation under three feet in height and other ground
4 cover, including leaf litter and the forest duff layer, shall not be cut, covered,
5 or removed, except to provide for a footpath or as allowed pursuant to a
6 registration or individual permit.

7 (F) Pruning of tree branches on the bottom one-third of a tree's
8 height is allowed.

9 (G) Removal of dead, diseased, or unsafe trees shall be allowed
10 regardless of points.

11 (c) As used in this section, "other natural vegetation" means retaining
12 existing vegetation under three feet in height and other ground cover and
13 retaining at least five saplings less than two inches in diameter at four and
14 one-half feet above ground level for each 25-foot by 25-foot area. If five
15 saplings do not exist, no woody stems less than two inches in diameter can be
16 removed until five saplings have been planted or rooted in the plot.

17 § 1448. MUNICIPAL DELEGATION

18 (a) Municipal shoreland bylaws or ordinances. The Secretary may delegate
19 authority to permit the construction, creation, or expansion of impervious
20 surface or cleared area under this chapter to a municipality that has adopted a
21 shoreland bylaw or ordinance if:

1 (1) the municipality adopts a bylaw or ordinance regulating construction
2 of impervious surface or creation of cleared area in a protected shoreland
3 area; and

4 (2) the Secretary determines that the municipality adopted a municipal
5 bylaw or ordinance that is at least as stringent as the requirements and
6 exemptions under sections 1444, 1445, 1446, and 1447 of this title.

7 **[Question—at least as stringent or functionally equivalent]**

8 (b) Delegation agreement.

9 (1) Delegation under subsection (a) of this section shall be by agreement
10 between the Secretary and the delegated municipality. The delegation
11 agreement shall set the terms for revocation of delegation.

12 (2) Under the delegation agreement, the Secretary and the municipality
13 may agree, in instances where a delegated municipality does not or cannot
14 address noncompliance, that the Secretary, after consultation with the
15 municipality, may institute enforcement proceedings under chapter 201 of
16 this title.

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

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

21 (B) take timely and appropriate enforcement actions;

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

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

5 (E) cure any defects in such bylaw or ordinance or in the
6 administration or enforcement of such bylaw or ordinance upon notice of a
7 defect from the Secretary.

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

14 § 1449. COORDINATION OF AGENCY OF NATURAL RESOURCES'

15 PERMITTING OF ACTIVITIES IN PROTECTED SHORELAND

16 AREAS

17 (a) Coordination of permitting in protected shoreland area. During
18 technical review of a permit application for a wastewater system, potable water
19 supply, stormwater discharge, or stormwater treatment facility that is proposed
20 to be located in a protected shoreland area and that does not require a permit
21 under this chapter, the Agency division issuing the wastewater system, potable

1 water supply, stormwater discharge, or stormwater treatment facility permit
2 shall consult with the Agency's Lakes and Ponds Section regarding practices
3 or activities that could reduce the impact of the proposed activity on the
4 protected shoreland area or water quality of lakes adjacent to the protected
5 shoreland area.

6 (b) Agency guidance or procedure. The Agency may formalize the
7 consultation process required by this section in a guidance document or
8 internal agency procedure.

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

13 § 1450. MUNICIPAL ZONING BYLAW OR ORDINANCE

14 (a) Construction of impervious surface or creation of cleared area occurring
15 outside protected shoreland areas. Construction of impervious surface or
16 creation of cleared area occurring outside a protected shoreland area shall
17 conform to duly adopted municipal zoning bylaws and applicable municipal
18 ordinances and shall not be subject to regulation by the Secretary of Natural
19 Resources under this chapter.

20 (b) Existing municipal bylaws and ordinances. The requirements of this
21 chapter are in addition to existing municipal bylaws and ordinances, and

1 proposed construction of impervious surface or creation of cleared area within
2 the protected shoreland area shall comply with all relevant, existing municipal,
3 State, and federal requirements.

4 Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

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

7 * * *

8 (22) 10 V.S.A. chapter 164A, collection and disposal of
9 mercury-containing lamps; ~~and~~

10 (23) 24 V.S.A. § 2202a, relating to a municipality's adoption and
11 implementation of a solid waste implementation plan that is consistent with the
12 State Solid Waste Plan; and

13 (24) 10 V.S.A. chapter 49A, relating to lake shoreland protection
14 standards.

15 Sec. 4. 10 V.S.A. § 8503 is amended to read:

16 § 8503. APPLICABILITY

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

21 (1) The following provisions of this title:

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* * *

(R) chapter 32 (flood hazard areas).

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

* * *

Sec. 5. 3 V.S.A. § 2822(j)(32) is added to read:

(32) For projects taking place in a protected shoreland area that require a registration or permit under 10 V.S.A. chapter 49A: \$0.50 per square foot of impervious surface or cleared area.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

[Question—Aquatic nuisance prohibition enforceable in Judicial Bureau?]

(Committee vote: _____)

Senator [surname]

FOR THE COMMITTEE