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H.39

Introduced by Representative Sheldon of Middlebury

Referred to Committee on

Date:

Subject: Conservation and development; water resources; stormwater;  
impervious surface; permitting threshold

Statement of purpose of bill as introduced: This bill proposes to lower the threshold when a State operational stormwater permit is required from construction or redevelopment of one acre of impervious surface to construction or redevelopment of one-half of an acre or more of impervious surface. The bill would also lower the threshold at which a permit is required for the expansion of impervious surface.

An act relating to the threshold for operational stormwater permits

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

Sec. 1. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

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

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

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

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

10          (5) A person shall not expand existing impervious surface by more than  
11 5,000 square feet, such that the total resulting impervious area is greater than  
12 ~~one~~ one-half of an acre, without first obtaining a permit from the Secretary.

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

16               (i) an individual permit;

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

18               (iii) coverage under a municipal separate storm sewer system

19 permit that implements the technical standards and criteria established by the

20 Secretary for stormwater improvements of municipal roads.

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

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

11       Sec. 2. APPLICABILITY OF AGENCY RULES

12           All Agency of Natural Resources rules applicable to the construction or  
13 redevelopment of one acre or more of impervious surface or the expansion of  
14 existing impervious surface by more than 5,000 square feet, such that the total  
15 resulting impervious area is greater than one acre, shall be applicable to the  
16 construction or redevelopment of one-half of an acre or more of impervious  
17 surface or the expansion of existing impervious surface by more than 5,000  
18 square feet, such that the total resulting impervious area is greater than  
19 one-half of an acre.

1       Sec. 3. TRANSITION

2           The construction or redevelopment of less than one acre of impervious  
3       surface and the expansion of existing impervious surface by more than 5,000  
4       square feet, such that the total resulting impervious surface is less than one  
5       acre, shall not require a permit under 10 V.S.A. § 1264(c)(1) or (5) provided  
6       that:

7           (1) except for application for permits issued pursuant to 10 V.S.A.  
8       § 1264(c)(4), complete applications for all local, State, and federal permits  
9       related to the regulation of land use or a discharge to waters of the State have  
10       been submitted as of July 1, 2017, the applicant does not subsequently file an  
11       application for a permit amendment that would have an adverse impact on  
12       water quality, and substantial construction of the project commences within  
13       two years of July 1, 2017;

14           (2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all  
15       local, State, and federal permits related to the regulation of land use or a  
16       discharge to waters of the State have been obtained as of July 1, 2017, and  
17       substantial construction of the project commences within two years of the  
18       July 1, 2017;

19           (3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no  
20       local, State, or federal permits related to the regulation of land use or a

1 discharge to waters of the State are required, and substantial construction of the  
2 project commences within two years of July 1, 2017; or  
3 (4) the construction, redevelopment, or expansion is a public  
4 transportation project, and as of July 1, 2017, the Agency of Transportation or  
5 the municipality principally responsible for the project has initiated  
6 right-of-way valuation activities or determined that right-of-way acquisition is  
7 not necessary, and substantial construction of the project commences within  
8 five years of July 1, 2017.

9 Sec. 4. EFFECTIVE DATE

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