

Conservation Law Foundation
Testimony on H.39
February 15, 2017

CLF strongly supports H.39.

When rain falls on pavement rather than soil, two things happen: first, it gains speed as it runs across, resulting in increased erosion and flood risks. Second, it collects pollutants (de-icing salts, oil, antifreeze, pathogens, metals, and nutrients) and carries them to our waterways. To mitigate these negative environmental impacts, the Department of Environmental Conservation administers stormwater permits.

Currently, the permitting threshold for an operational permit for stormwater runoff from new development, redevelopment, or expansion is one acre. This threshold is problematic for a number of reasons:

- Developed lands contribute about 114 metric tons of phosphorus each year to Lake Champlain. To meet the TMDL, our pollution budget, we need to reduce this amount by 21 percent.
- In addition, we need to reduce streambank erosion by roughly 45 percent. As land is developed, it alters the hydrology of waterways, causing channel destabilization and erosion.
- A significant percentage of new development falls below the current one-acre permit threshold. DEC knows this because it receives about 3x as many construction permits as operational permits.
- About 90 percent of existing impervious surface in Vermont does not have stormwater permit coverage or any practices in place to treat stormwater.
- According to Vermont's Climate Assessment, precipitation is increasing and heavy rainfall events are becoming more common.

What does this mean? We have an obligation to lower our phosphorus load from impervious surfaces, but our current regulatory structure is not capturing very much of the developed land out there. To top it off, climate change is only exacerbating the problem.

We really have two options: we can try to squeeze all of the necessary phosphorus reductions from the currently regulated developed land or we can expand the amount of area that is under regulation and have a fairer distribution of treatment practices.

The first option doesn't make much sense because retrofitting existing developed land is much more expensive than implementing treatment practices on new development. This is important to note as this Committee also discusses funding clean water. It is far more cost effective to bake in stormwater treatment into development or redevelopment plans.

CLF would also like to comment on DEC's testimony: namely, to exclude redevelopment and expansion from the half acre threshold as well as to extend the time for implementation until 2020.

We appreciate DEC's request for additional time to implement this program. If administrative burden is the justification for choosing to exclude redevelopment and expansion, then providing an additional two years of time for implementation should be sufficient to plan ahead and alleviate this burden. However, should the timeframe for implementation be extended, CLF does not support the extended transition period. There should be no transition period needed given the advanced notice of two years.