

1 H.633

2 Introduced by Representatives Dolan of Waitsfield and Satcowitz of Randolph

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water resources; erosion control;

6 contractor certification

7 Statement of purpose of bill as introduced: This bill proposes to require a  
8 person certified in erosion control measures to be present at the site of an  
9 activity that disturbs soil within a protected lake shoreland area or a protected  
10 perennial stream area.

11 An act relating to erosion control certification for excavation contractors

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

13 Sec. 1. 10 V.S.A. § 1285 is added to read:

14 § 1285. EROSION CONTROL CERTIFICATION; EXCAVATION

15 CONTRACTORS

16 (a) As used in this section:

17 (1) "Excavation contractor" means an individual or firm engaged in a  
18 business that:

19 (A) causes the disturbance of soil, including grading, filling, or  
20 removal; or

1           (B) engages in an activity that disturbs the soil.

2           (2)(A) “Perennial stream” means a river, stream, or brook exceeding 0.5  
3 square miles in watershed size in which surface flows are not frequently or  
4 consistently interrupted during normal seasonal low flow periods. Perennial  
5 streams that begin flowing subsurface during low flow periods, due to natural  
6 geologic conditions, remain defined as perennial. All other streams, or stream  
7 segments of significant length, shall be termed intermittent.

8           (B) A perennial stream shall not include:

9                   (i) standing waters in a wetland, lake, or pond; or

10                   (ii) ditches or other constructed channels primarily associated with  
11 land drainage or water conveyance through or around private or public  
12 infrastructure.

13           (3) “Protected lake shoreland area” has the same meaning as “protected  
14 shoreland area” in section 1442 of this title.

15           (4) “Protected perennial stream area” means all land located within 250  
16 feet of the top of bank or top of slope of a perennial stream.

17           (b)(1) An excavation contractor conducting activities that cause soil  
18 disturbance in a protected lake shoreland area or a protected perennial stream  
19 area shall ensure that a person certified by the Secretary in erosion control  
20 practices is:

1           (A) responsible for management of erosion and sediment control  
2           practices at the site of the activity; and  
3           (B) present at the site each day that soil disturbance activity occurs  
4           for a duration sufficient to ensure that proper erosion and sedimentation control  
5           practices are followed.

6           (2) The requirements of this subsection shall apply:

7           (A) until installation of permanent erosion control measures at the  
8           site of the activity; or

9           (B) if the site is to be revegetated, until the area is sufficiently  
10          covered with vegetation necessary to prevent soil erosion.

11          (c) This section shall not apply to:

12          (1) activities resulting in less than one cubic yard of soil being added or  
13          displaced;

14          (2) a person or firm engaged in farming regulated by the Required  
15          Agricultural Practices or silvicultural activities conducted in compliance with  
16          the Acceptable Management Practices; or

17          (3) federal, State, or municipal employees engaged in projects  
18          associated with their employment.

19          Sec. 2. CERTIFICATION STANDARDS

20          On or before November 15, 2022, the Secretary of Natural Resources shall  
21          develop standards for the certification of excavation contractors under

1     10 V.S.A. § 1285. The Secretary shall base the certification standards on  
2     sediment control measures required under the State stormwater construction  
3     permit, the State stream alteration permit, and other applicable State water  
4     quality permit programs.

5     Sec. 3. IMPLEMENTATION

6         Beginning on January 1, 2023, a certified excavation contractor shall be  
7     required under 10 V.S.A. § 1285 for activities that cause soil disturbance in a  
8     protected lake shoreland area or a protected perennial stream area.

9     Sec. 4. EFFECTIVE DATE

10         This act shall take effect on July 1, 2022.