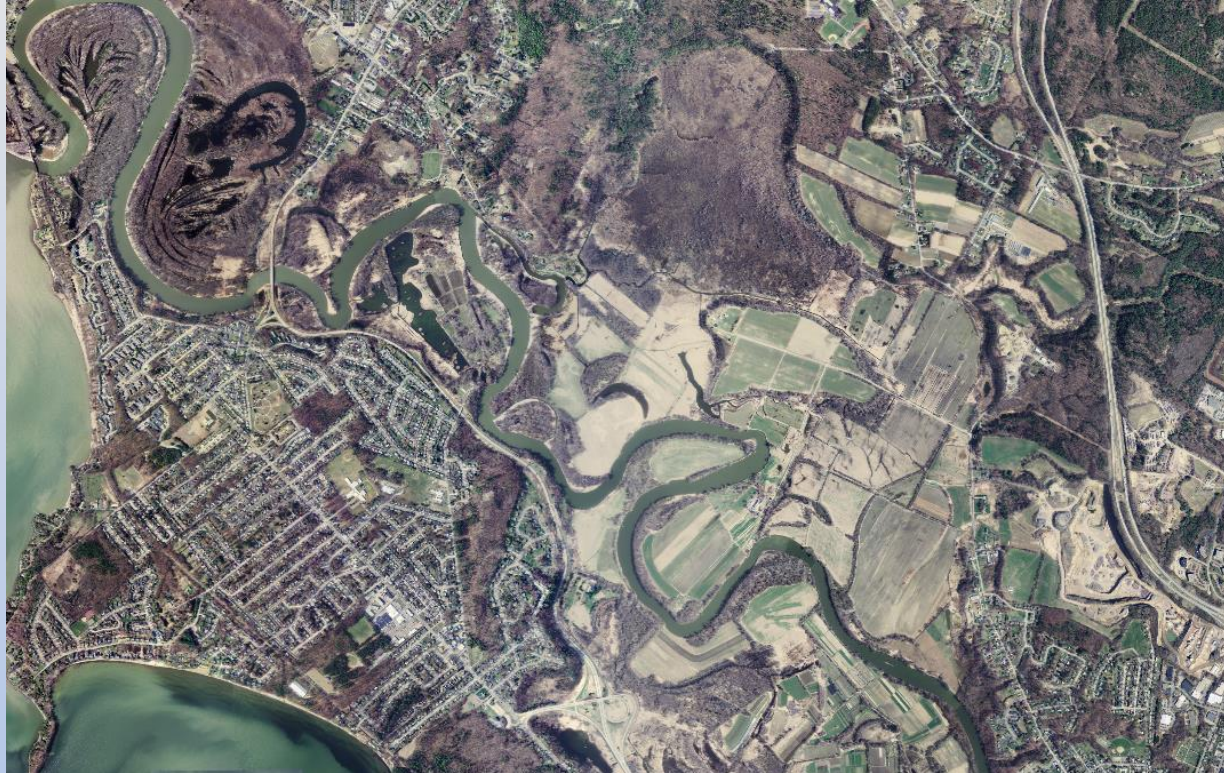


# Act 250 Criterion 9(B) - Primary Agricultural Soils Presentation to the House Committee on Environment and Energy February 7, 2024



# Act 250, Criterion 9(B)



*Image generated with ANR  
Natural Resources Atlas*

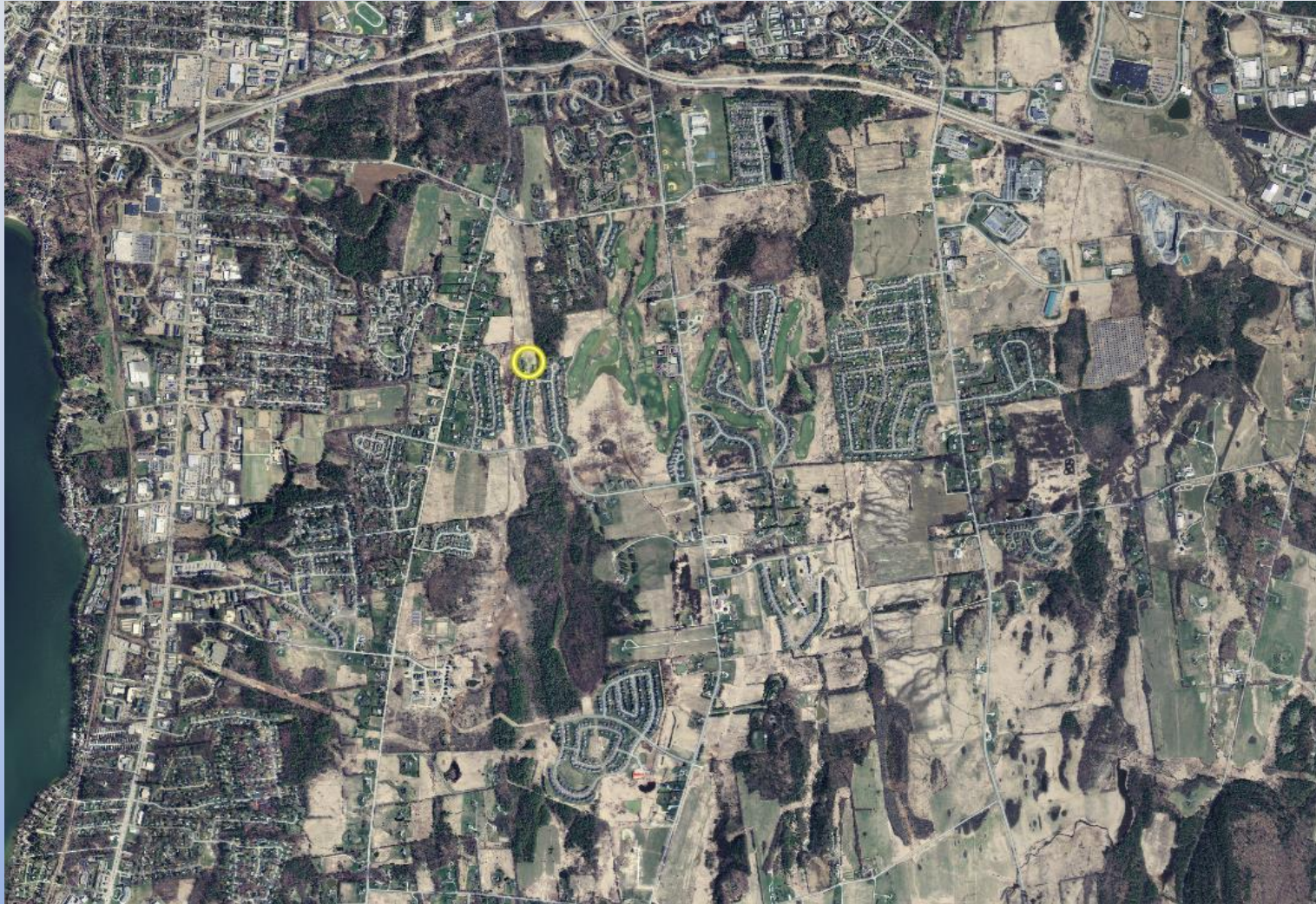
- Act 250 is a Vermont development/land use law administered by the NRB
- Criterion 9(B), **Primary Agricultural Soils**, is one of ten criteria (plus sub-criteria).
- AAFM is a statutory party under 9(B); reviews whether soils meet PAS definition, acreage of mitigation warranted, sufficiency of proposed on-site mitigation soils, recommended permit conditions.
  - Applicable multipliers, between 2 and 3 based on soil ag value group, for projects outside designated areas. See 10 V.S.A. § 6093.
- District Environmental Commissions issue permit conditions and decisions

# Primary Agricultural Soils (PAS)

10 V.S.A. § 6001(15)

- (A) An important farmland soils map unit that the Natural Resources Conservation Service of the U.S. Department of Agriculture (NRCS) has identified and determined to have a rating of **prime, statewide, or local importance**, unless the District Commission determines that the soils within the unit have lost their agricultural potential. In determining that soils within an important farmland soils map unit have lost their agricultural potential, the Commission shall consider:
- (i) impacts to the soils relevant to the agricultural potential of the soil from previously constructed improvements;
  - (ii) the presence on the soils of a Class I or Class II wetland under chapter 37 of this title;
  - (iii) the existence of topographic or physical barriers that reduce the accessibility of the rated soils so as to cause their isolation and that cannot reasonably be overcome; and
  - (iv) other factors relevant to the agricultural potential of the soils, on a site-specific basis, as found by the Commission after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets.
- (B) Soils on the project tract that the District Commission finds to be of agricultural importance, due to their present or recent use for agricultural activities and that have not been identified by the NRCS as important farmland soil map units.

## ANR Natural Resources Atlas; see NRCS mapped statewide, prime, or locally important soils



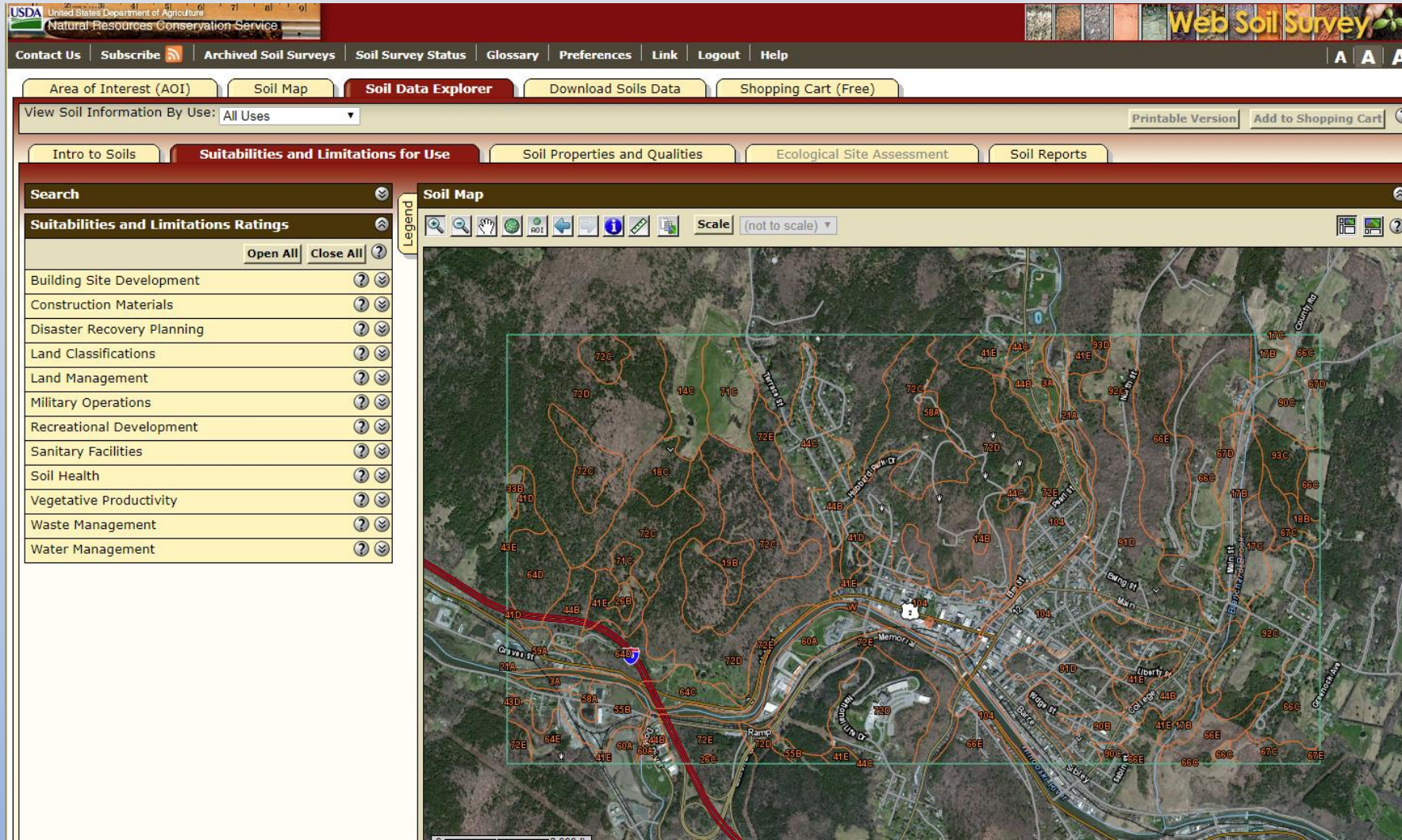
*Image generated with ANR  
Natural Resources Atlas*

# ANR Natural Resources Atlas; see NRCS mapped statewide, prime, or locally important soils



*Image generated with ANR  
Natural Resources Atlas*

# NRCS Web Soil Survey - <https://websoilsurvey.sc.egov.usda.gov>



The screenshot displays the NRCS Web Soil Survey interface. At the top, the USDA logo and "Web Soil Survey" title are visible. The navigation menu includes "Contact Us", "Subscribe", "Archived Soil Surveys", "Soil Survey Status", "Glossary", "Preferences", "Link", "Logout", and "Help". Below this, there are tabs for "Area of Interest (AOI)", "Soil Map", "Soil Data Explorer", "Download Soils Data", and "Shopping Cart (Free)". The "Soil Data Explorer" tab is active, showing a dropdown menu for "View Soil Information By Use:" set to "All Uses". Other options include "Printable Version" and "Add to Shopping Cart".

The left sidebar contains a "Search" section with "Suitabilities and Limitations Ratings" and a list of categories:

- Building Site Development
- Construction Materials
- Disaster Recovery Planning
- Land Classifications
- Land Management
- Military Operations
- Recreational Development
- Sanitary Facilities
- Soil Health
- Vegetative Productivity
- Waste Management
- Water Management

The main area shows a "Soil Map" with a satellite view of a region. The map is overlaid with orange contour lines and labels for various soil types, such as 72C, 41E, 66E, and 90C. A green rectangular box highlights a specific area on the map. The map includes a legend, a scale (set to "not to scale"), and navigation tools.

# Off-site Mitigation

*(by permit condition issued by Commission)*



Fee into Vermont Housing and Conservation Trust Fund, administered by VHCB for “preserving [PAS] of equal or greater value with the highest priority given to preserving prime agricultural soils.” 10 V.S.A. § 6093(a)(1). Cost/acre by District based on recent agricultural conservation easement closings in region. 10 V.S.A. § 6093(a)(1)(C).



VHCB leverages these funds along with other federal, state, or locally available funds to conserve prime farmland in the region of the development through permanent conservation easements



Default for projects in designated areas (ie downtown development district; growth center; Industrial Park as defined and permitted by Act 250. 10 V.S.A. § 6093(a)(1).



For projects outside designated areas, available only subject to District Commission’s findings of mitigation flexibility (appropriate circumstances) for off-site or a combination of on and off-site, if consistent with agricultural elements of local/regional plans. 10 V.S.A. § 6093(a)(3).





# On-site Mitigation

## Default outside designated areas

Agency reviews plan with proposed on-site mitigation soils to be available for present and future agricultural use, capable of supporting or contributing to an economic agricultural operation

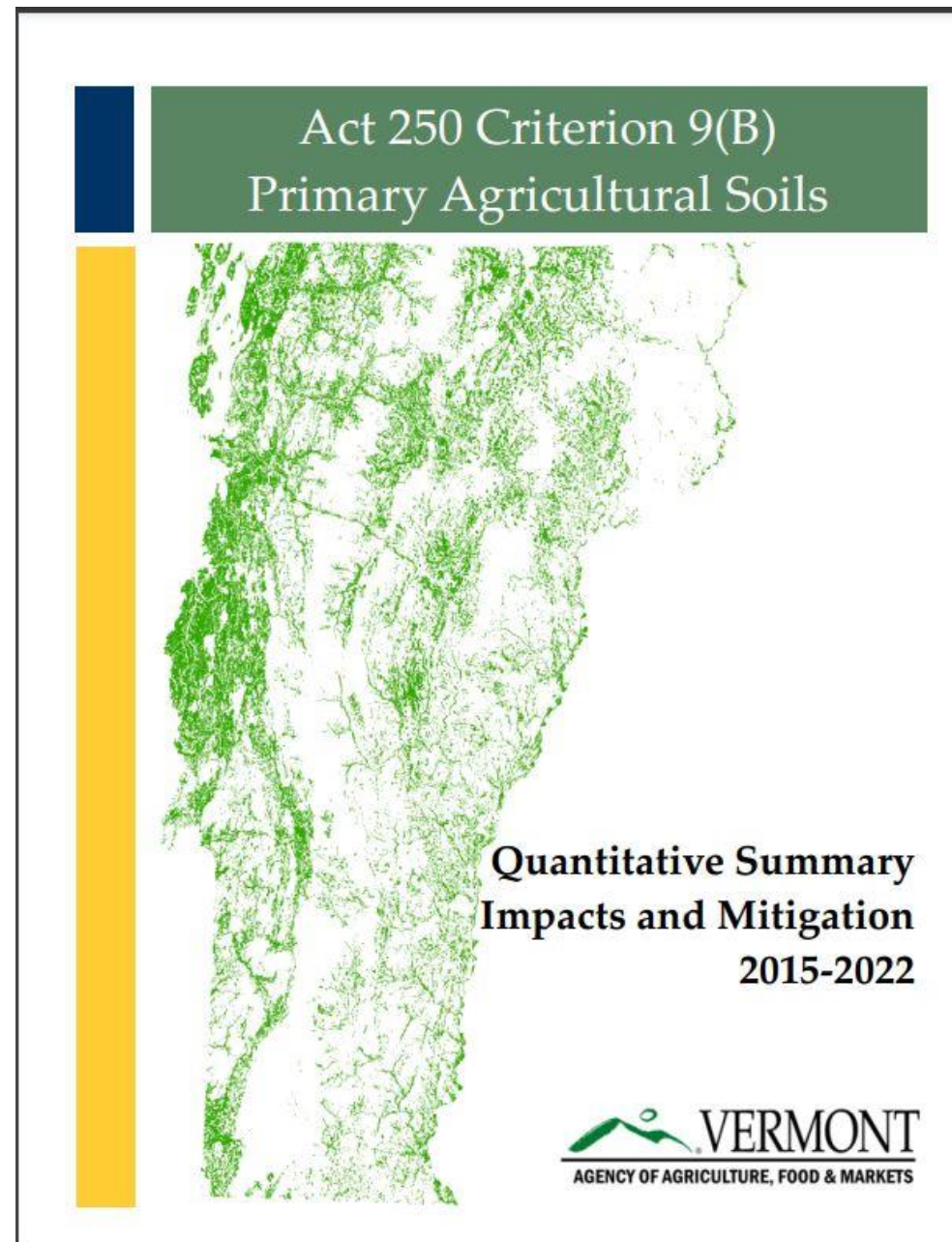
See 10 V.S.A. § 6093(a)(2)



# Upcoming 9(B) Internship



**On-site Mitigation Lands: Survey of Landowners, to determine percentage of soils in agricultural use and potential opportunities to foster land access to mitigation lands for farming**



More information about Criterion 9(B) / Primary Ag Soils (including the 'Quantitative Summary Impacts and Mitigation' report by previous intern Nicholas Lewis) available on the [Agency's 9\(B\) Web Page](#)