

## S.218. An Act Relating to reducing Chloride Contamination of State Waters

### Section by Section Summary

#### Section 1. Purpose

- Sec. 1 provides that the purpose of the Act is to establish the accepted standards of care for the application of salt and salt alternatives in an effective and efficient manner that provides safe conditions for pedestrians and motor vehicles on traveled surfaces while also reducing the impacts of salt and salt alternatives on the quality of the waters of the State.

#### Section 2. Creation of Chloride Contamination Reduction Program

- Sec. 2 establishes a Chloride Contamination Reduction program at ANR.

10 V.S.A. § 1361, provides the definitions for the Program. Key definitions are:

- “Commercial salt applicator” means any individual who for compensation applies salt or salt alternatives for compensation but does not include municipal or State employees.
- “Salt” means sodium chloride, calcium chloride, magnesium chloride, or any other substance containing chloride used for the purpose of deicing, anti-icing, or dust control.
- “Salt alternative” are substances not containing chloride used for deicing, anti-icing, or dust control.

10 V.S.A. § 1362, establishes the Chloride Contamination Reduction Program.

- ANR, after consultation with AOT and other states with similar chloride reduction programs, shall establish the Chloride Contamination Reduction Program.
- The Program will provide **voluntary** education, training, and certification of commercial salt applicators regarding effective application of salt and salt alternatives to provide safe conditions for pedestrians and motor vehicles while also reducing impacts on water quality.
- On or before July 1, 2027, ANR shall adopt by rule best management practices (BMPs) for application of salt or salt alternatives by commercial salt applicators. The BMPs shall:
  - establish measures or techniques to increase efficiency in application so the least amount of salt or salt alternatives are used while maintaining safe conditions for pedestrians and vehicles;
  - establish standards for when and how application occurs in order to prevent salt or salt alternatives from entering waters of the State, including:
    - cost-effective salt alternatives that are less harmful to waters while maintaining safety;
    - whether and how to implement equipment to calibrate, monitor, or meter application; and
    - when sand is an appropriate alternative to salt or salt alternatives for deicing or dust control, particularly in regard to when application of sand will be less harmful to water quality;
  - establish record-keeping requirements for commercial salt applicators;
  - create and circulate a model form for record-keeping information required under this section;
  - establish requirements for certification, including frequency and manner of training; and
  - establish a testing requirement for applicators to complete prior to certification.

- The Program shall offer training for commercial applicators in the implementation of the BMPs.
  - Upon completion of training, a commercial salt applicator shall be designated a certified commercial salt applicator. Certification shall be for 2 years from date of issuance of certification.
  - A business that employs multiple commercial salt applicators may apply for certification of the owner or other employee as a master commercial salt applicator who shall ensure that all persons employed by the business as applicators are trained to comply with the BMPs established.
- A certified commercial salt applicator shall submit an annual summary of winter salt usage to ANR.
- The Secretary may revoke a certification for a violation of the Program requirements.
- The Program shall specifically exclude salt applications related to transportation infrastructure construction projects.
- The Secretary may elect to implement the Program with State agency staff or through a third-party vendor, or some combination.

10 V.S.A. § 1363, provides an affirmative defense from liability for certified commercial salt applicators

- A certified commercial salt applicator or an owner, occupant, or lessee of real property maintained by a certified commercial salt applicator shall have an affirmative defense against a claim arising from a hazard caused by snow or ice if:
  - the hazards are caused solely by snow or ice; and
  - any failure or delay in removing or mitigating the hazards is the result of the certified applicator's implementation of the best management practices for application of salt or salt alternatives.
- The affirmative defense shall not apply when the damages are due to gross negligence or reckless disregard of the hazard.
- To maintain the affirmative defense, a commercial salt applicator or an owner, an occupant, or a lessee of land shall keep a record describing its road, parking lot, and property maintenance practices, consistent with the requirements determined by the Secretary.
  - The records shall include type and rate of application of salt or salt alternatives used, dates of treatment, and weather conditions for each event requiring application of salt or salt alternatives.
  - The records shall be retained by the applicator for a period of three years

10 V.S.A. § 1364, provides that certified commercial salt applicator is entitled to a rebuttable presumption that they are in compliance with water discharge and stormwater permitting requirements when applying according to the BMPs.

- The rebuttable presumption shall not apply to requirements of a TMDL or a MS4 permit.

10 V.S.A. § 1365, directs ANR to conduct education and outreach regarding the Program.

- The education and outreach shall inform:
  - commercial salt applicators of the existence of the Program and affirmative defense; and
  - members of the public who purchase salt or salt alternatives for use on driveways, sidewalks, private roads, and other paved surfaces of the potential harm from excessive application and how to decrease the potential harm.

### **Sec. 3. ANR Report on Management of Salt and Sand Storage Facilities**

- By Jan. 15, 2027, ANR shall submit to the Legislature a report regarding management by State and municipal facilities of the storage of salt, salt and sand mixtures, and sand not mixed with salt.
- The report shall include:
  - an inventory of State and municipal facilities used for storage of salt, salt and sand, or sand;
  - an estimated number of these facilities that are currently covered;
  - an estimate of the number of these facilities that are not covered and are within 100 yards of a surface water or drinking water source;
  - an estimate of the number of facilities that are not covered and are more than 100 yards from a surface water or drinking water source; and
  - an estimate of the total cost to cover or move facilities storing salt, salt and sand mixtures, or sand.

### **Sec. 4. Municipal Salt Applicators; Vermont Local Roads Curriculum**

- Prior to Nov. 1, 2027, ANR, in collaboration with AOT, shall make changes to the voluntary Vermont Local Roads curriculum to include BMPs for spreading salt on roads, parking lots, and sidewalks.
  - “Municipal salt applicator” means any individual who applies or supervises others who apply salt or salt alternatives in the capacity as an employee or agent of a town or a municipality.
- Notwithstanding statutory authority to sue municipal employees a municipal employee shall have an affirmative defense against claims for damages resulting from a hazard caused by snow or ice if:
  - the municipal salt applicator completed the Vermont Local Roads curriculum providing BMPs for applying salt or salt alternatives on roads, parking lots, and sidewalks in the previous 365 days;
  - the alleged damages are caused solely by hazards from snow or ice; and
  - any failure or delay in removing or mitigating the hazards is the result of the municipal salt applicator’s implementation of the BMPs learned under the Vermont Local Roads curriculum.
- The affirmative defense does not apply to damages due to gross negligence or reckless disregard of a hazard.
- To maintain the affirmative defense, a municipality shall keep a record describing its road, parking lot, and maintenance practices, consistent with ANR’s requirements under the Local Roads Curriculum.

### **Sec. 5. Fee Report**

- On or before January 15, 2027, ANR shall solicit interest from third-party vendors for training and certifying commercial salt applicators.
- If there is insufficient interest from vendors, ANR shall submit to the Legislature a recommended fee to charge for certification of commercial applicators.

### **Sec. 6. Contingent Implementation; Funding**

- Sec. 6. Provides that the duty of ANR to implement Secs. 2 (Chloride Contamination Reduction Program), 4 (municipal salt applicators), and 5 (fee report) is contingent upon an appropriation from the General Fund for the specific purposes described in Secs. 2, 4, and 5 of the act.