

Vermont State Wetland Program Summary



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Section A. Quick View

Description of State's Wetlands

Wetlands in Vermont include palustrine, lacustrine, and riverine. Palustrine wetlands consist of peatlands, scrub-shrub, and marshes. Lacustrine wetlands in Vermont include about 600 acres of open water, 200 acres of aquatic-bed wetlands, less than 50 acres of emergent wetlands, and 23,400 acres of unclassified near-shore wetlands in Lake Champlain. Riverine emergent wetlands cover about 174 acres.

State Definition of Wetlands

As defined in the Vermont Wetland Rules, wetlands shall mean "those areas of the state that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mudflats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities." Regulations also provide definitions for "alpine peatland," "bog," "deep marsh," "fen," "shallow marsh," and "wooded swamps."

Historic Wetland Loss/Gain

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
341,000	220,000	121,000	35%

Primary State Wetlands Webpage

VT Department of Environmental Control, Watershed Management Division Web Page:
<http://www.vtwaterquality.org/wetlands.htm>

State Wetland Program Plan

Vermont Wetland Program Plan

http://water.epa.gov/type/wetlands/upload/vt_wpp.pdf

No Net Loss/Net Gain Goal

Policy as stated in the Vermont Wetland Rules, Sec. 1.1 Purpose and Authority: It is the policy of the State of Vermont to identify and protect significant wetlands and the values and functions which they serve in such a manner that the goal of no net loss of such wetlands and their functions is achieved. The no net loss policy is also in state statute.

State Resources for Wetland Work (2014 Estimates)

State Name	Core element #1: Regulation	Core Element #2: Monitoring and Assessment	Core Element #3: Wetland Water Quality Standards	Core Element #4: Voluntary Wetland Restoration
Agency	DEC	DEC Monitoring and Assessment Program	DEC (mostly for looking at certifications, not developing standards)	DEC
Source(s)	Federal, permit fees fund, general fund	WPD grants, small state match	Combined with regulatory; some EPA Program Development Grants	EPA Program Development Grants; RCPT grant (NRCS)
Amount	Unavailable	Unavailable	Unavailable	Unavailable
Staffing	5.25 FTE	0.5 FTE		
Agency	Fish and Wildlife (looking at permits)	DEC Watershed Management		Fish and Wildlife
Source(s)	Unavailable	Unavailable		Unavailable
Amount	Unavailable	Unavailable		Unavailable
Staffing	0.25 FTE	0.25 FTE		0.5 FTE
Agency	Land Use (looking at permits)			NRCS
Source(s)	Unavailable			Unavailable
Amount	Unavailable			Unavailable
Staffing	1 FTE			<1 FTE (one part-time staff person)

State Permitting Fees

State Permitting Fee	State Name
Yes/No	YES
Amount (range)	\$200-\$95k (pipeline project); fee is based on square footage of the project; agricultural conversion projects = maximum permit fee of \$200
Agency	DEC

Innovative Features

- *Vermont Riparian Buffer Guidance*: Vermont has a non-regulatory buffer zone of 50 feet or more depending on the significance of the wetland functions and values. The *Guidance* is for use by Agency staff in establishing Agency recommendations and testimony in the Act 250 process; and assisting applicants in designing Act 250-regulated projects that incorporate appropriate buffer zone widths for protecting riparian functions. For more information go to: <http://www.anr.state.vt.us/site/html/buff/anrbuffer2005.htm>

Models and Templates

- *Vermont Wetland Functions and Values List*: Vermont provides an evaluation list that the Vermont Wetland Program uses to evaluate Vermont wetlands and their importance to the public and ecosystem health. The evaluation sheet is used by wetland professionals for a preliminary assessment of wetland functions and values. To view the list, go to: http://www.watershedmanagement.vt.gov/wetlands/html/wl_function.htm
- Vermont Rapid Assessment Method (VRAM)
- Vermont's Wetlands Webpage is a one-stop online source for connections to all the state's wetland-related guidance and resources; it serves as an excellent model for other states: <http://www.watershedmanagement.vt.gov/wetlands.htm>
- Draft Antidegradation Procedure that includes wetlands

Section B. Regulation

How are Wetlands Regulated in Vermont?

Vermont has its own wetland permitting program. The State of Vermont identifies and protects wetlands through 1) the Vermont Wetland Rules, 2) the Land Use and Development Law and 3) Clean Water Act (CWA) §401 certification in association with the federal §404 permit program. The Vermont Wetland Rules (1990, amended 1990, 2010) regulate wetlands which provide significant functions and values. The Rules are part of Vermont's Wetland Protection Act. Conditional and allowed activities, exemptions, permitting procedures, and mitigation requirements are described in the rules, as well as enforcement provisions and wetland classification. The Vermont Wetland Rules can be downloaded from: (http://www.watershedmanagement.vt.gov/wrprules/wsmd_VWR%207-16-10.pdf). Vermont has developed "Significant Wetland Inventory" (VSWI) maps to add in formal determinations and that adds to the maps available in the state.

Wetlands that are “presumed” to provide significant functions and values, and so are subject to the Vermont Wetland Rules include: 1) any wetland on the VSWI map, 2) any wetland contiguous or connected to the VSWI mapped wetland, 3) any wetland that is the same type and size as what is on the VSWI maps (1/2 acre or larger) and 4) wetlands over or under a half acre that are:

- adjacent to a stream, lake, pond, or river
- vernal pools
- special and unique wetlands like bogs or fens
- headwaters above 2500 feet elevation
- adjacent to impaired waters

Vermont’s Agency of Natural Resources’ (ANR) contains the Department of Environmental Conservation (VTDEC), which houses the Watershed Management Division. DWQ manages the Wetlands Section. The Wetland Rules are implemented by the Watershed Management Division Program. The purpose of the rules is “to identify and protect significant wetlands and the values and functions which they serve in such a manner that the goal of no net loss of such wetlands and their functions is achieved. The Vermont Wetlands Program is responsible for identifying and protecting wetlands and the functions and values they provide by the implementation and informal interpretation of the Vermont Wetland Rules. Activities to achieve these goals include education, project review, and enforcement.

Vermont’s Wetland Rules classify wetlands into three categories based on an evaluation of functions:

- Class One wetlands are those wetlands that are “exceptional or irreplaceable in their contribution to Vermont’s natural heritage and are therefore so significant that they merit the highest level of protection;”
- Class Two wetlands are “so significant, either taken alone or in conjunction with other wetlands, that they merit protection;”
- Class Three wetlands are those wetlands that “have not been determined by the Program to be so significant that they merit protection under the rules,” either because they have not been evaluated or because when last evaluated, did not merit Class One or Class Two classification Wetlands that are not mapped on the Vermont State Wetlands Inventory (VSWI) are Class Three wetlands.

Class One and Two wetlands are “significant wetlands” and therefore are protected under the Vermont Wetland Rules. The Rules establish a regulatory program for Class One and Class Two wetlands and adjacent buffer zones. Rule-making procedures are required for re-classification of wetlands. This expanded jurisdiction beyond the old NWI maps. Since the update in 2010, program staff can make Class 2 and Class 3 determinations and can suggest Class 1 resources. There are only three Class 1 wetlands in the state at this time. Any wetland that has not been evaluated is treated as a Class 2 wetland. The program can also determine what size a buffer zone should be. Vermont has developed “Significant Wetland Inventory” (VSWI) maps to add in formal determinations and that adds to the maps available in the state. Class Three wetlands are not protected under the Rules, however, they may be protected by other state, federal, or local regulations.

Vermont’s Natural Resources Board has two panels: the Land Use Panel and the Watershed Management Division Panel. The Panel is responsible for adoption of the Vermont Wetland Rules, state water quality standards and rules regulating uses of public water, surface water levels, designation of outstanding resource waters, and classification of wetlands and outstanding resource waters. The *Land Use and Development Law*, also known as Act 250, requires a land use permit prior to certain kinds of development.

State wetland permits are called Conditional Use Determinations (CUDs). The CUD process includes §401 water quality certification for those projects that require federal review and approval under CWA §404 in making permit determination. To obtain a permit, applicants must demonstrate that have avoided and minimized impacts to wetlands so that there is no impact of a function or value of the wetland and that they are in compliance with the Vermont Wetland Rules. Issuance of a CUD serves as a presumption of compliance with the wetland rules. VTDEC staff relies on the regulatory framework provided by the Vermont Wetland Rules and best professional judgment. The rules list and describe ten functional criteria for evaluating a wetland’s significance, both for purposes of classification and determination of level of protection merited. The state has both individual and general permits for wetland impacts, based on thresholds and consideration of sensitive areas.

Other wetlands may be considered under criteria pertaining to water pollution, streams, wildlife habitat, aesthetics, natural areas, threatened and endangered species habitat, and erosion control. (VSA, Title 10 Section 6001-6092). Vermont wetlands do not include deep flowing waters or streams, which are regulated by a separate program for lakes and streams.

The state also has new Shoreland Zoning requirements for shoreland encroachment that can include wetlands. There can be jurisdictional overlap between wetland regulations and these Shoreland Zoning requirements.

Wetland Delineation

Delineation Guidance	Yes	No	Detail
Use State’s Own Method		X	
Use Corps’ 87 Manual and Regional Supplement	X		
Other (Please describe)		X	

Evaluation Methodology

Vermont Wetland Rules provide guidance on how the functions and values of wetlands are to be evaluated. When evaluating whether a wetland is a Class II or a Class I wetland, the functions that the wetland serves both as a discrete wetland and in conjunction with other wetlands by considering the functional criteria listed in Section 5 of the Rules.

http://www.watershedmanagement.vt.gov/wrprules/wsmd_VWR%207-16-10.pdf.

Exempted Activities (State reviewing this section; check with state for clarification)

Vermont’s exemptions are very different from the federal exemptions. Exemptions are listed in the Vermont Wetland Rules. Generally, the Rules regulate all activities that involve draining, dredging, filling, grading, or changing the flow of water into or out of a significant wetland, with some exemptions for silviculture and agriculture. The state’s definition of agriculture is very different (cropland prior to 1986 and farmland prior to 1990 are exempt). This includes lands that have been farmed or kept in regular rotation since 1990 or any activity before the Rules took effect. Evaluation of presumption includes evaluation of non-mapped wetlands. If it meets presumption, the state assumes it meets Class

2 requirements until it is formally assessed for functions and values. Vermont’s Wetland Rules can be downloaded from: http://www.watershedmanagement.vt.gov/wrprules/wsmd_VWR%207-16-10.pdf.

Special Provisions for Agriculture and Forestry (State reviewing this section; check with state for clarification)

Many silviculture and agriculture activities are either exempt or are considered allowed uses. The state’s definition of agriculture is very different (cropland prior to 1986 and farmland prior to 1990 are exempt). Agriculture provisions apply to anything in agricultural use since 1990 and any agricultural conversion since the Rules took effect. Best management practices (BMPs) from the Forest, Parks and Recreation Department at ANR must be followed.

Penalties and Enforcement

The Agency Enforcement Division is responsible for enforcement, as specified in the Vermont Wetland Rules. Violations may be subject to civil suit, injunction, remediation, the assessment of punitive damages, and reimbursement for damages caused by the violation, as well as administrative penalties of up to \$25,000 per violation plus \$10,000 per day the violation continues, and civil penalties of up to \$50,000 per violation plus \$25,000 per day the violation continues.

Permit Tracking

The Vermont Wetlands Program tracks permits using VTDEC’s Wetland Program’s permit tracking system, which documents all wetland projects that have come under staff review. The database includes information collected from project review sheets, enforcement proceedings, field inspections, including responses to registered complaints.

State General Permit (statewide vs. regional coverage)

Permit Coverage	Yes	No	Detail (Type of Permit)
Regional General Permit		X	
Statewide General Permit		X	

Description: Vermont has its own permitting program and issues §401 certifications for all permits by the Corps.

Assumption of 404 Powers

Assumption Status	Yes	No	Detail
Assumed		X	
Working Toward Assumption		X	
Explored Assumption		X	Assumption has been discussed, but the state is not being pursued at this time. Funding is the primary reason for not pursuing assumption.

Joint permitting

None.

Special Area Management Plans and Advanced Identification Plans

Information not available.

Buffer Protections

- Vermont requires buffer zones of 50 feet or more depending on the significance of the wetland functions and values. Projects must stay 50 feet out of the buffer zone or apply for a permit,
- *Vermont Riparian Buffer Guidance* is used by Agency staff in establishing Agency recommendations and testimony in the Act 250 process; and assisting applicants in designing Act 250-regulated projects that incorporate appropriate buffer zone widths for protecting riparian functions. For more information go to: <http://www.anr.state.vt.us/site/html/buff/anrbuffer2005.htm>
- The state provides a report called “Buffer Zones and Beyond” that addresses the buffer zone in terms of wildlife habitat use.
- Additionally, the state’s “Wetland Buffers: Use and Effectiveness” report details the use of specific wildlife species within a certain distance of the wetland edge in the buffer zone.

Mitigation Policy

Vermont does not approve mitigation often. When mitigation is approved, the Corps takes the lead through the In Lieu Fee (ILP) Program. The Vermont Wetland Rules (Section 8.5) state that adverse impacts, other than minimal impacts, will not be permitted unless avoidance and minimization sequencing has been conducted. Avoidance and minimization are strongly emphasized in the state. Once sequencing requirements have been met, compensation may be considered if in accordance with the rules. Restoration and creation will be permitted to compensate for necessary impacts to Class Two wetlands. No impacts are allowed for Class 1 wetlands unless there is a public health risk. To date there has been no mitigation on Class 1 wetlands in the state. Mitigation must compensate for the impacted functions specified in the rules through wetland creation at a minimum of a 1:1 ratio.

Mitigation Database

The state does not have a mitigation database. The Corps uses the RIBITS national database.

Section C. Monitoring and Assessment

Agency Responsible for Wetland Monitoring and Assessment

The Vermont Department of Environmental Conservation (VT DEC) is responsible for monitoring and assessment. These assessments are conducted according to a checklist of criteria that are evaluated through professional expertise and judgment.

VT DEC's Vermont Bioassessment Monitoring Program documents wetland community taxa, water quality and measurable disturbance for the multitude of wetland types, and evaluate the resulting condition gradient utilizing plant species and the key to assess the condition of Vermont wetlands.

The state uses the *Vermont Rapid Condition Assessment Method (VCRAM)* to assess wetland function and condition. VCRAM was developed by the Agency of Natural Resources' Watershed Management Division to determine the condition of Vermont's wetlands.

VTDEC and the Vermont Wildlife Diversity Program have developed methods for the classification and bioassessment of two wetland types: seasonal pools (vernal pools) and northern white cedar swamps.

Mapping/Inventory (State is currently reviewing this section; contact state for more information)

In 2010, Vermont developed "Significant Wetland Inventory" (VSWI) maps to add in formal determinations and that adds to the maps available in the state. The state does not have a proactive mapping process. Mapping only occurs if development is proposed. In order to change a map, all landowners must be contacted. VSWI maps are now a separate layer from the state's NWI maps. When a determination is made, the determination is made the VSWI layer.

If a wetland is presumptive, it does not matter if it is mapped. All state maps are advisory, indicating areas to stay away from. The state provides a specific advisory (non-jurisdictional) mapping layer that incorporated all town mapping (incorporating non-state mapping sources).

NWI maps are available for the state, and some areas have been remapped. The wetlands from the NWI maps have been reformatted for town use using GIS. Individual towns have also mapped wetlands using color infrared aerial photographs and field follow-up. NWI is currently updating its maps, but Vermont is not incorporating this information into their VSWI maps.

Additionally, the Vermont Heritage Program inventoried wetland natural community types throughout the state using The Nature Conservancy classification system.

State Wetland Mapping Public Portal

Vermont Wetlands Inventory Map Website

<http://anrmaps.vermont.gov/websites/WetlandProjects/default.html>

Wetland Classification and Assessment

Classification of wetlands in Vermont includes three classes of wetlands: Class One wetlands are Vermont's most significant wetlands and are established through a petition process. Class Two wetlands are wetlands that provide a significant function or value, and are generally the palustrine wetlands shown on the NWI maps for the state. Class Three wetlands are those wetlands that do not have significant functions or values.

Vermont is in the process of working to refine and calibrate their Vermont Rapid Condition Assessment Method (VCRAM). The state uses the *Vermont Rapid Condition Assessment Method (VCRAM)* to assess wetland function and condition. VCRAM was developed by the Agency of Natural Resources' Watershed Management Division to determine the condition of Vermont's wetlands. The tool links wetland

impact(s) to current condition and water quality through floral taxa, the community structure of the flora, and water quality sampling.

VCRAM is not used as substitute for the evaluation of the functions of a particular wetland, rather it is used in conjunction with the state’s *Function and Value Checklist* to determine the ecological significance and level of condition within the wetland. To download the Assessment Method guidance document, go to: https://www.neiwpc.org/nebawwg/documents/ManualSections/Section%208_2.pdf

Statewide Wetland Monitoring Plan

The state’s Water Quality Monitoring Strategy includes wetlands. Vermont’s Monitoring, Assessment and Planning Program (MAPP) integrates three components of the Vermont water pollution control program. MAPP measures water quality indicators and evaluates these indicators in light of applicable standards or thresholds. Information about the condition of waters is then used to develop watershed plans that target waters for protection or remediation. To download the state’s Strategy document, go to: http://www.anr.state.vt.us/dec/waterq/mapp/docs/mp_MonitoringStrategy2015.pdf

Overall Wetland Gain and Loss Tracking System

None. The state does track regulatory projects and enforcement actions.

Wetland Monitoring and Assessment Characteristics

Level	None	Level 1	Level 2	Level 3
<i>Vermont</i>				X

Type	None	IBI	Condition	Functional
<i>Vermont</i>		The state is working on an IBI	X VCRAM	State has a functions and values checklist*

*This checklist is for regulatory use and is not at a high level of monitoring

Frequency	None	Project Specific	Ongoing
<i>Vermont</i>			X* (rotational basin program)

** Program is reliant on successive EPA program development grants

Description: The Vermont Wetlands Bioassessment Project is part of a New England-wide effort to develop and implement biological assessment and monitoring programs for wetlands. A vernal pool study was designed by VT DEC Monitoring, Assessment & Planning Program (MAPP) to assess the natural variability in the biological, chemical, and physical make-up of reference-quality vernal pools in Vermont in order to provide a reference framework from which future vernal pool bioassessment programs can be developed; to develop a protocol for standardized sampling of macroinvertebrates, vegetation, and water chemistry in vernal pools; to develop a preliminary classification system for reference quality vernal pools that identifies important indicators of ecological health; begin to

identify the range of variability of identified indicators within the reference conditions well as factors that influence that variability.

Participation in National Wetland Condition Assessment

NWCA Study Type	Yes	No
National Study	X	
State Intensification Study		X

Detail: State staff conducted the sampling for NWCA sites in 2011.

Section D. Water Quality Standards

Wetland and Water Quality Standards

Type	None	Use Existing WQ Standards	In Process	Adopted	Future Direction
<i>Wetland-specific Designated Uses</i>		X	X		
<i>Narrative criteria in the standards to protect designated wetland uses</i>		X	X		
<i>Numeric criteria in the standards based on wetland type and location to protect the designated uses</i>		X	X		
<i>Anti-degradation policy includes wetlands</i>		X	X		

Description: Vermont has not developed water quality standards specific to wetlands, but standards do apply to all “waters of the state,” which include wetlands. Wetlands are not specifically called out in the standards. State water quality regulations list a water quality anti-degradation policy, a water conservation policy, and a riparian area conservation policy, and designated uses. However, any area involving a Class One or Two wetland ultimately requires wetland rule evaluation and a permit. Surface water quality standards are narrative, chemical, and biological in nature. The state has a process for evaluating wetland water quality, but it is not yet incorporated into the state’s water quality standards. The state looks to the wetland functions and values list, rather than water quality standards.

Section E. Voluntary Wetland Restoration

Types of Wetland Restoration Work Funded by the State:

Type of Work	YES	NO	Description
Fund Wetland Restoration (may include easement agreements)		X	The state will fund restoration work in the future.
Private Land Restoration		X	See above
Public Land Restoration		X	See above
Technical Assistance	X		The state has an MOU with NRCS and Fish and Wildlife to provide technical assistance to voluntary wetland restoration projects
Tax Incentives		X	
Other	X		The state has a calculator that helps determine how much to give towards easements.

Description: Vermont does not have a voluntary wetland restoration program. However, Vermont has been awarded a grant to begin the process of developing a statewide program. The program will be in partnership with NRCS.

Voluntary Wetland Restoration Program Components

Wetland Restoration Efforts	Nothing in the Works	Planning	In Progress	Mature/Complete
Program has a set of restoration goals	N/A			
Coordinate with relevant agencies that outline restoration/protection goals and strategies and timeframes	N/A			
Developed multi-agency body to coordinate restoration/protection efforts	N/A			
Set restoration goals based on agency objectives and available information	N/A			

Goals for Restoration Projects*

Goal	Yes	No	Description
No Net Loss	N/A		
Reverse Loss/Net Gain	N/A		
Nonpoint Source Pollution (NPS)/WQ	N/A		
Total Maximum Daily Load (TMDLs)	N/A		
Habitat	N/A		
Coastal Protection	N/A		
Floodwater Protection	N/A		

Groundwater	N/A		
Other (please describe)	N/A		

Landowner Guides and Handbooks to Assist with Voluntary Wetland Restoration Efforts

None. However, the Vermont Wetland Program page offers links to a range of resources for the public on wetland restoration: <http://www.watershedmanagement.vt.gov/wetlands.htm>

Section F. Innovative and/or Highly Effective Education and Outreach

- Vermont’s Wetlands Webpage is a one-stop online source for connections to all the state’s wetland-related guidance and resources; it serves as an excellent model for other states: <http://www.watershedmanagement.vt.gov/wetlands.htm>
- *Vermont Wetland Functions and Values List*: Vermont provides an evaluation list that the Vermont Wetland Program uses to evaluate Vermont wetlands and their importance to the public and ecosystem health. The evaluation sheet is used by wetland professionals for a preliminary assessment of wetland functions and values. To view the list, go to: http://www.watershedmanagement.vt.gov/wetlands/html/wl_function.htm
- *Landowner’s Guide to Wetlands: what You Need to Know Before You Purchase or Build on Wetlands*: http://www.watershedmanagement.vt.gov/wetlands/docs/wl_Am_I_in_a_Wetland_2014.pdf
- Vermont *Solar Guidance* document provides information on wetland considerations for solar developers and landowners: <http://www.watershedmanagement.vt.gov/wetlands/docs/Solar%20Wetland%20Brochure%202015.pdf>
- The *VT Herp Atlas* shows the distribution of reptiles and amphibians such as frogs and salamanders throughout the State of VT and the VT Vernal Pool Mapping Project offers the public an opportunity to become involved in mapping vernal pools.
- The *Amphibian Monitoring Training* video is a link to learn about locating and identifying areas for amphibian migration during the spring months.

Section G. Climate Change and Wetlands

The state does work on climate change issues, but the state wetland program does not currently work on specific climate change projects. It has worked on these issues in the past.

Section H. Integration

Entity/Program Area	Yes/No	Description of the Connection
NPDES/Stormwater	YES	Questions are asked between program staff; look at stormwater infrastructure (want to put them in wetlands)
303(d)	NO	Would like to see how other states are addressing this
305(b) reporting on wetlands	YES	
Total Maximum Daily Load (TMDLs)	YES	

Climate Change/ Resiliency	YES	
Land Use /Watershed planning	YES	Wetlands are integrated into basin plans and basin planning activities, including assessment, inventory, monitoring, and restoration activities.
Flood/Hazard Mitigation	YES	Floodways and wetlands overlap
Coastal Work	NO	
Wildlife Action Plan	NO	
Statewide Comprehensive Outdoor Recreation Plan (SCORP)	Unknown	
Other – Transportation	YES	Lots of use of discussion about wetlands and impact from transportation

State Wetland Program Development Continuum

Continuum Stage		Core Element 1: Regulation	Core Element 2: Monitoring & Assessment	Core Element 3: Wetland Water Quality Standards	Core Element 4: Voluntary Restoration
Mature Stage	High	X			
Initial Implementation Stage	↑		X		
Development Stage					X
Early Stage	Low			X	

State Wetland Program Contact

Laura Lapierre

Wetland Program Manager
 Vermont Department of Environmental Conservation
 Watershed Management Division
 1 National Life Drive, Main 2
 Montpelier VT 05620-3522
 (802) 490.6177
laura.lapierre@state.vt.us

Section J. Useful Websites