

Lauren Hierl, Vermont Conservation Voters

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Testimony for House Natural Resources, Fish & Wildlife Committee:

Good afternoon, thank you for having me.

My name is Lauren Hierl, I'm the director of Vermont Conservation Voters. VCV, as you all might remember, advocates for strong environmental laws, including putting together an annual Environmental Common Agenda of legislative priorities. This year, we are once again highlighting clean water as a top priority – including identifying long-term funding, and ensuring we strongly implement and enforce existing regulations.

We all watched this summer and fall as once again, beaches closed in Lake Champlain, green tap water poured out of faucets in Lake Carmi, a new TMDL for Lake Memphramagog was adopted, and numerous other reminders that we have a lot of work to do to clean up our waters.

And a key commitment we made as a state – spearheaded by this committee – was enacting Act 64, Vermont's Clean Water Act.

I was very actively involved in Act 64 when it was being deliberated and negotiated, and the 3-acre stormwater requirement was a central part of that bill. It was one of the pieces that many scientists, engineers, and water advocates thought was perhaps the most significant policy change in the whole bill.

Another key tenet of Act 64 was the “all in” mantra – which included the fact that all new regulations and funding requirements would apply statewide, since we have water quality concerns statewide, and where we currently are fortunate to have clean water, we want to keep it that way.

So it's really disappointing that now, five years before it's even required to be fully implemented, the administration is coming in and asking to slow down implementation of the 3-acre requirement, and make it apply differently in different parts of the state.

When negotiating this key component of Act 64, you all, the legislature, built in a long timeframe with flexibility in how this requirement can be implemented.

The state already missed the deadline of putting forward proposed regulations for the 3-acre general permit. But implementation on-the-ground isn't required until 2023 for the Lake Champlain watershed, and in the Connecticut River watershed, not until a full 10

years from now. We're concerned that pushing back the rulemaking now could very well lead to pushing back implementation of the rule in the future.

Further, the state just updated the stormwater manual after a robust process with input from many experts and years of work. If they've now learned that there are new practices that they would like to incorporate in the manual that might save developers money but achieve many of the same pollution reduction benefits, that's great, but they should vet that through the rulemaking process and work with stormwater experts and other stakeholders to vet and analyze the pros and cons of that proposal - as opposed to what seems like a runaround to the legislature.

This proposal seems premature – why exactly do we need this law right now? The agency should develop a proposed rule, which we could then review and analyze and perhaps that would elucidate if or why a legislative change is needed. Instead, they're coming forward asking for us to have confidence that we could still meet our water quality standards and TMDL requirements under the scheme they're proposing – without us having the benefit of seeing the full details of what the proposed scheme actually is.

The argument seems to be that we will deal with different pollutants differently with stormwater – stormwater treatment deals simultaneously with problems including legacy phosphorus, nitrogen, sediments, toxics, and erosion. The practices don't target one specific pollutants, and that's not how Act 64 was written, nor how it should be implemented. So this is a very big change in course that deserves a lot of scrutiny and a robust process for figuring out if it actually makes sense and will meet our water quality goals.

Further, we're being asked to slow down or rollback this requirement, when we've already seen some disappointing things coming out of the administration in how Act 64 is being implemented. Many of us are concerned that the Required Agricultural Practices are not going to be adequate to actually result in clean water; and we've seen a proposal to slow-walk long-term funding; and numerous rules are behind schedule. So we believe being asked to weaken another aspect of Act 64 implementation is unacceptable.

The bottom line for VCV is that we need to follow through on the commitments we made as a state in Act 64, and fully implement and enforce that law – not come in and start weakening, or building in exceptions.

We believe we need to maintain and strongly implement our existing clean water regulations, and provide robust funding, if we hope to meet the goal of clean water for all Vermonters.

Thank you for your time and consideration, I'd be happy to answer any questions.