

Clean Water Law Overview

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Introduction

- ◆ The economic and environmental imperative to restore and protect the state's surface water resources is memorialized in federal and state law
- ◆ In the modern era of clean water regulation, we are no longer talking only about what comes out of the end of a pipe, but the way we work and live on the land

Federal Clean Water Act

Cooperative Federalism

- ◆ EPA sets minimum national standards
- ◆ States implement the law subject to EPA oversight

Federal Clean Water Act

NPDES and Point Sources

- 💧 TBELs v. WQBELs
- 💧 Waste water treatment facilities
- 💧 Stormwater (MS4, CAFO, industrial)

Non-point sources (e.g. polluted runoff from impervious surfaces such as driveways, or erosion from disturbed forests and fields)

Federal Clean Water Act

TMDLs

- ◆ 303(d) List of Impaired Waters
- ◆ Waste Load Allocation and Load Allocation
- ◆ Mathematical Model and Restoration Plan

Chesapeake Bay TMDL

- ◆ State implementation plans
- ◆ Accountability framework
 - ◆ Milestones
 - ◆ Consequences
- ◆ Legal challenge

Lake Champlain TMDL 2002

- ◆ First Lake Champlain TMDL Approved by EPA in 2002
- ◆ EPA Approval Challenged by Conservation Law Foundation
- ◆ EPA Withdrew Approval in December 2011
- ◆ Vermont Cooperated with EPA to Develop New TMDL

Lake Champlain TMDL 2016

- ◆ Includes allocations for pollution load from major sources including wastewater, stream bank erosion, and polluted runoff from developed land, roads and agriculture
- ◆ Adopted by EPA in 2016 based on commitments by State of Vermont in Phase One Implementation Plan and Vermont Clean Water Act (Act 64)

Lake Champlain TMDL 2016 (continued)

- ◆ Accountability Framework (A la Chesapeake Bay TMDL)
 - ◆ Milestones
 - ◆ Consequences
- ◆ No Litigation (Yet)

Lake Champlain TMDL Phase I Plan and Basin Plans

- ◆ Lake Champlain Phase One Restoration Plan
 - ◆ Phase I Plan provides milestones for reductions of P pollution including wastewater treatment facilities, stream bank erosion, and polluted runoff from developed lands, roads, and agriculture
 - ◆ Phase II Plans to be based on tactical basin planning process

Vermont Clean Water Law

- ◆ Vermont Clean Water Act (Act 64 of 2015)
 - ◆ 3 Acre Retrofit Requirement
 - ◆ Municipal Roads General Permit
 - ◆ MS4 – Version 2.0
 - ◆ TS4 Permit
 - ◆ AMPs, RAPs and Small Farm Certification

Conclusion

- ◆ Restoring our waters is both a good idea and required by federal and state law.
- ◆ Postponing action is costly in terms of increased pollution, more expensive solutions, litigation, and economic costs.
- ◆ Investing in state-led solutions is more cost-effective, and can lead to broader public engagement and support than defaulting to EPA.