

AS PASSED BY SENATE S.96

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S.96

An act relating to the provision of water quality services

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. chapter 37, subchapter 5 is amended to read:

Subchapter 5. ~~Aquatic Nuisance Control~~ Water Quality Restoration and
Improvement

§ 921. DEFINITIONS

As used in this subchapter:

(1) “Basin” means a watershed basin designated by the Secretary for use
as a planning unit under subsection 1253(d) of this title.

(2) “Best management practice” or “BMP” means a schedule of
activities, prohibitions, practices, maintenance procedures, green infrastructure,
or other management practices to prevent or reduce water pollution.

(3) “Clean water project” means a best management practice or other
program designed to improve water quality ~~to achieve a target established
under section 922 of this title~~ that:

(A) is not subject to a permit under chapter 47 of this title, is not
subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements

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of a permit issued under chapter 47 of this title, or exceeds the requirements of

6 V.S.A chapter 215; and

(B) is within the activities identified in subsection 924(b) of this title.

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(4) “Design life” means the period of time that a clean water project is
designed to operate according to its intended purpose.

(5) “Maintenance” means ensuring that a clean water project continues
to achieve its designed pollution reduction value for its design life.

(6) “Standard cost” means the projected cost of achieving a pollutant
load reduction per unit or per best management practice in a basin.

§ 922. WATER QUALITY IMPLEMENTATION PLANNING AND
TARGETS

(a) After listing a water as impaired on the list of waters required by
33 U.S.C. § 1313(d), the Secretary shall include the following in any plan to
implement the requirements of any total maximum daily load adopted for an
impaired water:

(1) An evaluation of whether implementation of existing regulatory
programs will achieve water quality standards in the impaired water. If the

Secretary determines that existing regulatory programs will not achieve water quality standards, the Secretary shall determine the amount of additional pollutant reduction necessary to achieve water quality standards in that water. When making this determination, the Secretary may express the pollutant reduction in a numeric reduction or through defining a clean water project that must be implemented to achieve water quality standards.

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(2) An allocation of the pollutant reduction identified under subdivision (a)(1) of this section to each basin ~~and the clean water service provider assigned to that basin pursuant to subsection 924(a) of this title.~~ When making this allocation, the Secretary shall consider the sectors contributing to the water quality impairment in the impaired water's boundaries and the contribution of the pollutant from regulated and nonregulated sources within the basin. Those allocations shall be expressed in annual pollution reduction goals and five-year pollution reduction targets.

(3) A determination of the standard cost per unit of pollutant reduction. The Secretary shall publish a methodology for determining standard cost pollutant reductions. The standard cost shall include the **costs of project**

identification, assessment and scoping, technical assistance, education and outreach, project design, ~~and~~ project construction, monitoring of effectiveness and

Comment [1]: This list of work that's associated with getting a project on the ground should be consistent throughout the document. Consider using the definitions section to define "clean water work" Education and outreach will be included to some degree in this cost, because it takes town, landowner, and/or community support to implement projects. Some segments of the bill will include this litany of "clean water work" AND admin costs for grant management and reporting but that's not listed here as part of standard cost.

operations and maintenance. Costs may be duly inflated in consideration of the number and quality of co-benefits associated with a given project type.

(b)(1) The Secretary shall conduct the analysis required by subsection (a) of this section for previously listed waters as follows:

(A) For phosphorous in the Lake Champlain watershed, not later than November 1, 2021.

(B) For phosphorous in the Lake Memphremagog watershed, not later than November 1, 2022.

(C) For all other waters impaired by phosphorous, nutrients, or sediment, not later than November 1, 2024.

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(2) By not later than November 1, 2020, the Secretary shall adopt a schedule for implementing the requirements of this chapter in all other previously listed impaired waters not set forth in subdivision (1) of this subsection.

(c) When implementing the requirements of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

§ 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN WATER PROJECTS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating

Comment [2]: Districts support better quantification and tracking with support from the Agency.

Comment [3]: Consider an avenue for the evolution of the pollution reduction values, as they are consistently changing as we get more information.

pollution reduction values associated with a clean water project in that water.

~~Pollution reduction values established by the Secretary shall be the exclusive
method for determining the pollutant reduction value of a clean water project.~~

(b) After listing a water as impaired on the list of waters required by
33 U.S.C. § 1313(d), the Secretary shall publish a methodology for
establishing a design life associated with a clean water project. The design life
of a clean water project shall be determined based on a review of values
established in other jurisdictions, values recommended by organizations that
regularly estimate the design life of clean water projects, actual data
documenting the design life of a practice, or a comparison to other similar
practices if no other data exists. A design life adopted by the Secretary shall

Comment [4]: consider making that the "minimum design life". And supporting O&M on certain types of viable projects that have exceeded their expected design lives, but are still functioning

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be the exclusive method for determining the design life of a best management
practice or other control.

(c)(1) If a person is proposing a clean water project for which no pollution
reduction value or design life exists for a listed water, the Secretary shall
establish a pollution reduction value or design life for that clean water project
within 14 days of a request from the person proposing the clean water project.
A pollution reduction value or design life established under this subdivision

shall be based on a review of: pollution reduction values established in the TMDL; pollution reduction values or design lives established by other jurisdictions; pollution reduction values or design lives recommended by organizations that develop pollutant reduction values or design lives for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; actual data documenting the design life of a clean water project; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Any estimate developed under this subsection by the Secretary shall be posted on the Agency of Natural Resources' website.

(2) Upon the request of ~~a person proposing the clean water project~~ ~~clean water service provider~~, the Secretary shall evaluate a proposed clean water project and issue a determination as to whether the proposed clean water project is eligible to receive funding as a part

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of a Water Quality Restoration Grant awarded by the State pursuant to subsection 925(a) of this title.

(d)(1) The Secretary shall conduct the analysis required by subsections (a) and (b) of this section as follows:

(A) For clean water projects and design lives related to phosphorous,

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not later than November 1, 2021.

(B) For clean water projects and design lives related to nutrients or sediment, not later than November 1, 2024.

(2) By not later than November 1, 2020, the Secretary shall adopt a schedule for implementing the requirements of subsections (a) and (b) of this section for clean water projects and design lives related to all other impairments not listed under subdivision (1) of this subsection.

(e)(1) When implementing the requirements of subsections (a) and (b) of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

(2) When implementing the requirements of subsection (c) of this section, the Secretary shall follow the type 4 notice process in section 7715 of this title.

~~§ 924. CLEAN WATER SERVICE PROVIDER: RESPONSIBILITY FOR CLEAN WATER PROJECTS~~

~~(a) Clean water service providers: establishment.~~

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~~(1) On or before March 1, 2020, the Secretary shall adopt rules that assign a clean water service provider to each basin for the purposes of~~

Comment [5]: Our major concerns with the creation of a CWSP are:
1) Inefficient. It asks 14 or 15 different CWSPs to come up with 14 or 15 different project prioritization processes, funding application formats and rules, reporting requirements, and build out their own oversight procedures for operations and maintenance. For Districts, towns, and other project implementers who work across basins this adds significant workload to track these (not to mention the other grants we already track from other federal and state agencies and private foundations). Having a single entity, i.e. the state, set up consistent grant making rules, timelines, paperwork, and project prioritization significantly eases our ability to apply for and implement clean water projects. More efficiency means more clean water projects get to happen at a lower cost.
2) Burdensome to DEC. A central, single, multi-year agreement with a broad scope of services (Basin Planning, Project Development, and Project Design/Implementation combined) that includes reduction targets and long-term O&M for 3-5 state-wide groups like WUV, VAPDA, VHCB, and NRCC is far more efficient and cleaner than the proposed regional structure requiring 14 or 15 regional agreements.
3) Equity across implementation partners. It is inherently problematic to have one organization within a basin assume the role of the CWSP, be a member of the CWSP Council, AND be a water quality organization within the Basin receiving funds. We are significantly concerned about creating power dynamics among local water quality partners.

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~~achieving pollutant reduction values established by the Secretary for the basin and for identification, design, construction, operation, and maintenance of clean water projects within the basin. The rulemaking shall be done in consultation with regional planning commissions, natural resource conservation districts, watershed organizations, and municipalities located within each basin.~~

§ 924. CLEAN WATER PROJECT PRIORITIZATION; RESPONSIBILITY FOR CLEAN WATER PROJECTS

(a) Block grants and project prioritization

~~(2) (1) On or before May 2020 the Agency shall review existing Block Grants that it releases and implement improvements to future block grant rounds so that a larger proportion of the Agency's clean water funding awards as listed in section 925 are delivered via Block Grant mechanisms. Improvements shall allow Block Grant agreements to be made with qualified Block Grant applicants to be multi-year and to include the full spectrum of project work (identification, assessment and scoping, education and outreach, project design, project construction, grant administration and reporting, effectiveness monitoring, and operations and maintenance.)~~

~~(2) The Secretary shall, in consultation with Basin Planners, adopt through rule-making guidelines for prioritizing all proposed clean water projects in the watershed projects database to include but not be limited to basin location, specific pollution reduction potentials, cost-effectiveness, technical feasibility, co-benefits, and support from the respective water quality advisory council.~~

~~(3) The Agency may consider past success in implementing the highest priority projects (as proportional to past funding received) when deciding future Block Grant award totals and recipients.~~

~~An entity designated as a clean water service provider shall, in consultation with the basin water quality advisory council established under~~

Comment [6]: The Districts believe that delivering clean water funding through a centralized block grant system is more cost-effective and efficient for the reasons mentioned above. This would resolve the BURDENSOME TO DEC concern listed above. This section is intended to encourage/require the Agency to push more money out the door through longer-term and more flexible contracts rather than through small project-by-project contracts. This is different from the regional model because Block Grant recipients are not tied to a specific basin but, more preferably, they would deliver subgrants statewide. This introduces more flexibility to shift funding to where it's needed. Since many project implementers already have a centralized "umbrella" organization and have voiced preference to apply for grants from these familiar and existing institutions (i.e. WUV, VAPDA, NRCC, VHCB, etc.), this also addresses our concern about equity and power dynamics across partners. Especially given that existing Block Grant recipients typically aren't project implementers themselves and therefore wouldn't have an incentive to keep the money "in-house".

Comment [7]: Greater transparency on which projects are selected for funding and why they're prioritized would move us towards more accountability and better "bang for your buck". We have good models for how projects can be prioritized. For example, stormwater master plans use prioritization matrices that include assessing a potential project across a range of factors to come up with a short list of best projects to do "right now". The idea with this language is that the Agency and Basin Planners use their technical expertise to develop the guidelines/framework/scoring system so that project implementers have clear guidance upfront which projects to pursue. Block Grant recipients would be expected to apply this framework when deciding which projects/subgrant recipients to fund first. Districts believe a single framework set at the state-level will be far easier to follow and use to guide project planning than having different priorities set through a regional model. This goes a long way towards addressing our INEFFICIENCY concerns above.

Comment [8]: This is an effort to introduce accountability for Block Grant recipients. Sections below require Block Grant recipients to deliver subgrants in accordance with a state-level framework on project prioritization. If they don't deliver on their projects (in proportion to funding initially received) when compared to other Block Grant recipients, they may possibly receive less funding in the next Block Grant making round. Projects ultimately implemented could be scored using the prioritization framework such that \$ spent per benefit achieved (including but not limited to pollutant load reduction) is considered in this evaluation. This format also alleviates burden on the Agency to figure out exactly how much to give each Block Grant recipient since they would all technically support projects in all basins.

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~~subsection (g) of this section, be required to identify and prioritize projects, and develop,~~

~~construct, monitor, operate, and maintain clean water projects in accordance~~

~~with the requirements of this subchapter 5.~~

~~(3)(4)~~ **(4)** In carrying out its duties, a ~~clean water service provider~~ **the Secretary shall adopt**

guidance for subgrants that establishes a policy for ~~how the clean water service~~

~~provider~~ **how Block Grant recipients will issue subgrants and a percentage of administrative funding to other organizations in the basin, giving due**

consideration to the expertise of those organizations and other requirements for

the administration of the grant program. The subgrant guidance shall be

subject to the approval of the ~~basin water quality advisory councils.~~

~~(4)(5)~~ **(5)** When selecting clean water projects for implementation or funding,

~~a clean water service provider~~ **Block grant recipient shall deliver subgrants using the project prioritization framework developed under section 1 .**

~~prioritize projects identified in the basin~~

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~~plan for the area where the project is located and shall consider the pollutant~~

~~targets provided by the Secretary and~~ **Guidance shall also be sought through the recommendations of the Basin Planners.** ~~basin water~~

Comment [9]: They would have to agree collectively since the guidance would apply statewide

(b) Project identification, prioritization, selection. ~~When identifying,~~
~~prioritizing, and selecting an activity to fund meet a pollution reduction value, the~~
~~clean water service provider~~ **Block Grant Recipient** ~~may consider, in no particular~~
~~order of priority,~~

funding clean water projects in the following sectors:

(1) developed lands, including municipal separate storm sewers,
operational stormwater discharges, municipal roads, and other developed lands
discharges;

(2) natural resource protection and restoration, including river corridor
protection, wetland protection and restoration, and riparian corridor protection
and restoration;

(3) forestry; and

(4) agriculture.

(c) Maintenance responsibility. ~~A clean water service provider~~ **Subgrant recipients**
shall be responsible for executing an operations and maintenance agreement for the
entirety of the design life of that clean water project which identifies the
responsible party. Block Grant Recipients shall be

responsible for reporting on the maintenance of ~~maintaining~~ **a clean water project**
by the responsible party ~~or ensuring the maintenance.~~

for the entirety of the design life of that clean water project. Adequate funding
shall be provided for these responsibilities.

The Secretary shall develop through rule-making language to be used in
operations and maintenance contracts ~~defining specific maintenance tasks.~~

Comment [10]: Districts strongly support long-term maintenance and have long requested funding to perform these tasks. Again, it's not necessary to entirely restructure funding mechanisms to get O&M paid for.

Comment [11]: Consistent contractual language developed for statewide use with the legal resources housed at the state may significantly help clarify accountability for O&M

(d) Water quality improvement work. Block Grant Recipients may direct block grant funds towards

~~If a clean water service provider achieves a greater level of pollutant reduction than a pollution reduction goal or five year target established by the Secretary, the clean water service~~

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~~provider may carry those reductions forward into a future year. If a clean water service provider achieves its pollutant reduction goal or five year target and has excess grant funding available, a clean water service provider may use those funds towards~~ **other eligible projects, operation and maintenance**

responsibilities for existing constructed projects, projects across within the basins that

are required by federal or State law, or other work that improves water quality within the geographic area of the basin, including protecting river corridors, aquatic species passage, and other similar projects.

(e) Reporting. A clean water service provider-Block Grant Recipient shall report annually to the

Secretary. The report shall contain the following:

(1) a summary of all clean water projects completed that year through the block grant recipient's subcontracts separated by basin in the

~~basin;~~

(2) a summary of any inspections of previously implemented clean

Comment [12]: Pollution load reduction targets are given due consideration but shouldn't supersede other valuable and critical clean water projects (i.e. anti-degradation work) that is happening statewide. Particularly if this is more cost-effective than remediation. The heavy focus on impaired waters and phosphorus means significant portions of the state will not benefit from clean water funding. This is not the "all in" articulated in the Vermont Clean Water Act. The bill suggests that the utilization of CWF funds for regulatory project implementation will only be considered if there are extra funds available in the Clean Water Fund. Currently, a significant portion of Clean Water Fund funds are used to support landowners and communities in fulfilling regulatory requirements through outreach and education and technical assistance. Reducing or eliminating this funding would have a serious negative impact on the State's ability to fulfill its clean water obligations. Striking this language allows the Block Grant recipients the flexibility to grant out subcontracts as they see fit but still with the incentive to achieve high scoring projects in terms of pollutant load reductions.

Comment [13]: This allows the agency to evaluate whether pollution reduction targets were met for each basin

water projects and whether those clean water projects continue to operate in
accordance with their design;

(3) all indirect and administrative costs incurred by the **block grant recipient and
subcontractors** ~~clean water~~
~~service provider~~;

(4) a list of all of the subgrants awarded by the **block grant recipient** ~~clean water~~
~~service~~
~~provider in the basin~~; and

(5) all data necessary for the Secretary to determine the pollutant
reduction achieved by ~~the clean water service provider~~ **partners** during the prior
year.

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(f) Accountability for pollution reduction goals. **If partners across a basin
collectively** ~~a clean water service~~
~~provider~~ **fails to meet its the basin's allocated pollution reduction goals or its five-
year**
target or fails to maintain previously implemented clean water projects the
Secretary ~~shall take appropriate steps to hold the clean water service provider~~
~~accountable for the failure to meet pollution reduction goals or its five year~~
~~target. The Secretary~~ may take the following steps:

Comment [14]: A regionalized approach will diffuse responsibility for achieving clean water targets. This responsibility should remain with DEC (and other agencies according to their jurisdiction) because they have the counsel staff necessary to respond to legal claims. It appears that the proposed system will function as a substitute for DEC expanding its basin planning, grant management and financial management staff to fulfill its clean water obligations, and that ANR would be outsourcing a portion of DEC's responsibilities. We believe this would diffuse responsibility for fulfilling those obligations. DEC is delegated by USEPA to implement the Clean Water Act, holds much of the responsibility for fulfilling the Lake Champlain TMDL, and has the strongest scientific and technical capacity to oversee clean water programs.

(1) Host a meeting with relevant partners and collect feedback on barriers the Agency can address to increase the flow and predictability of funding to get projects implemented in a timely fashion.

(2) Enter a plan to implement feedback and suggestions to ensure that the basin partners ~~clean water service provider~~ meets

current and future year pollution reduction goals and five-year targets;

(2) ~~Initiate an enforcement action~~ pursuant to chapter 201 or 211 of this

title for the failure of a clean water service provider to meet its obligations; or

(3) Initiate rulemaking to ~~adjust targets based on feasibility-~~ designate an alternate

clean water service

provider as accountable for the basin.

(g) Basin water quality advisory council.

(1) ~~A clean water service provider designated under this section~~ **Basin Planners** shall

establish a basin water quality advisory council for each assigned basin. The

purpose of a basin water quality advisory council is to make recommendations

to the **Basin Planners** ~~clean water service provider~~ regarding the most significant

water quality

impairments that exist in the basin and prioritizing the projects that will

address those impairments.

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Comment [15]: First it's important to note that it's not clear how the Agency will determine whether pollution reduction targets have been met. Are they just counting number of projects that actually got put in and multiplying by expected load reductions based on a model that doesn't yet exist? Are they using water quality data and field observations?
This needs to be better defined first. Second, Districts do not believe "enforcement actions" will increase our ability to get clean water projects implemented and actually introduces additional costs to our operations. Importantly, models may not always accurately represent actual reductions. It's also not clear how external factors that increase stressors would be factored into the responsibilities held by clean water project implementers. For example, if climate change brings more rains, or there's more development, is that the fault of the implementer? More "enforcement" doesn't help any of that. Since accountability should ultimately remain with the Agency, this section can be re-written as an opportunity for adaptive management such that, "if things aren't working, let's find out why and change how money is granted out," instead of "if things aren't working let's fine people."

Comment [16]: Districts strongly support increased local input on project prioritization but the current structure of the water quality advisory councils is too large-compromising efficiency and heavily weighting municipal input. This section is edited so that smaller councils provide recommendations directly to Basin Planners and that feedback is integrated into project identification and prioritization by the Block Grant recipients as required by the Agency's framework (See section 1). Importantly, this is modeled after something that currently exists and should replace rather than duplicate the efforts of existing clean water advisory committees (CWACs) which are already convened by every regional planning commission on a bi-weekly schedule to discuss regional priorities and provide feedback on the tactical basin plans and priority projects as they are updated.
If you then let projects be prioritized through consistent guidance from the State this strikes a balance between local input and efficient project work.

(2) A basin water quality advisory council shall be no larger than 11 and include, at a minimum,

the following:

(A) representatives from each natural resource conservation district

in that basin, or from two natural resource conservation districts in that basin whichever is the lesser value. Representatives shall be selected by the applicable natural resource conservation district;

(B) representatives from each local watershed protection organization

operating in that basin, or from two watershed protection organizations operating in that basin, whichever is the lesser value. Representatives shall be selected by the applicable watershed protection

organization;

(C) representatives from each regional planning commission operating in that basin or from two regional planning commissions operating in that basin whichever is the lesser value.

~~(C) representatives from applicable local or statewide land conservation organizations the conservation organization in consultation with the clean water service provider; and~~

(D) representatives from each municipality two of the municipalities within the basin. Process for selection of which municipalities will serve can be defined by the relevant municipalities and may include a rotating schedule. selected

~~by the municipality.~~

(E) representatives from two applicable regional or statewide environmental conservation organizations selected by vote by the remainder of the clean water advisory council in consultation with the Basin Planner.

(3) ~~The designated clean water service provider and the~~ The Agency of

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Natural Resources shall provide ~~adequate funding to members of the~~ ~~staff support~~ ~~to the~~ basin water quality

advisory council to participate in not less than 6 meetings a year. The clean water service provider may invite support from

persons with specialized expertise to address matters before a basin water

quality advisory council, including support from the University of Vermont

Extension, staff of the Agency of Natural Resources, and staff of the Agency

of Agriculture.

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§ 925. WATER QUALITY GRANT PROGRAMS

(a) The Secretary shall administer a Water Quality Restoration Formula

Grant Program to award ~~block grants~~ ~~to clean water service providers~~ to meet the

pollution reduction requirements under this subchapter. The grant amount

shall be based on ~~what the block grant applicant deems feasible to implement~~ ~~across all basin partners,~~ ~~clean~~

~~water service provider~~ multiplied by the standard cost for pollutant reduction

including the costs of administration and reporting. ~~No more than 15 percent~~

~~of the total grant amount awarded to a clean water service provider shall be~~

~~used for administrative costs.~~

Comment [17]: These projects are expensive to manage and investments need to be made to help Basin Planning Partners focus on implementing clean water projects effectively and efficiently instead of scrambling to find more and other funding sources to cover our time.

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(b) The Secretary shall administer a Water Quality Enhancement Grant

Program. This program shall be a competitive grant program to fund projects that protect high quality waters, create resilient communities, and promote the public's use and enjoyment of the State's waters, and restoration and protection of all waters of the state to ensure we are addressing antidegradation and preventing our waters from becoming impaired.

. When making awards under this program, the Secretary shall consider the cost-effectiveness of an award and the funding needs of each basin. ~~No more than 15 percent of the total grant amount awarded to a clean water service provider shall be used for administrative costs.~~

(c) The Secretary shall administer a Stormwater Implementation Grant Program to provide grants to persons who are required to obtain a permit to implement regulatory requirements that are necessary to achieve water quality standards. ~~The grant program shall only be available in basins where a clean~~

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~~water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. This grant program may fund projects related to the permitting of impervious surface of~~

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three acres or more under subdivision 1264(g)(3) of this title. ~~No more than
15 percent of the total grant amount awarded to a clean water service provider
shall be used for administrative costs.~~

(d) The Secretary shall administer a Municipal Stormwater Assistance
Grant Program to provide grants to any municipality required to obtain a
permit pursuant to section 1264 of this title. ~~The grant program shall only be
available in basins where a clean water service provider has met its annual
goals or is making sufficient progress, as determined by the Secretary, towards
those goals. No more than 15 percent of the total grant amount awarded to a
clean water service provider shall be used for administrative costs.~~

§ 926. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

The Secretary shall provide technical assistance upon the request of any
person who, under this chapter, receives a grant or is a subgrantee of funds to
implement a clean water project.

§ 927. RULEMAKING

The Secretary may adopt rules to implement the requirements of this
subchapter.

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Sec. 2. 10 V.S.A. § 1253(d)(2) is amended to read:

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) review the evaluations performed by the Secretary under subdivisions 922(a)(1) and (2) of this title and update those findings based on any new data collected as part of a basin plan;

(E) for projects in the basin that will result in enhancement of resources, including those that protect high quality waters of significant natural resources, the Secretary shall identify the funding needs beyond those currently funded by the Clean Water Fund;

(F) ensure that municipal officials, citizens, natural resources conservation districts, watershed groups, and other interested groups and individuals are involved in the basin planning process;

~~(E)~~(G) ensure regional and local input in State water quality policy development and planning processes;

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~~(F)~~(H) provide education to municipal officials and citizens regarding
the basin planning process;

~~(G)~~(I) develop, in consultation with the regional planning
commission, an analysis and formal recommendation on conformance with the
goals and objectives of applicable regional plans;

~~(H)~~(J) provide for public notice of a draft basin plan; and

~~(I)~~(K) provide for the opportunity of public comment on a draft
basin plan.

Sec. 3. 10 V.S.A. § 1387 is amended to read:

§ 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

(a)(1) The State has committed to implementing a long-term Clean Water
Initiative to provide mechanisms, staffing, and financing necessary to achieve
and maintain compliance with the Vermont Water Quality Standards for all
State waters.

(2) Success in implementing the Clean Water Initiative will depend
largely on providing sustained and adequate funding to support the
implementation of all of the following:

(A) the requirements of 2015 Acts and Resolves No. 64;

(B) federal or State required cleanup plans for individual waters or
water segments, such as total maximum daily load plans;

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(C) the Agency of Natural Resources' Combined Sewer

Overflow Rule; and

(D) the operations of clean water service providers under chapter 37,
subchapter 5 of this title.

(3) To ensure success in implementing the Clean Water Initiative, the
State ~~should~~ shall commit to funding the Clean Water Initiative in a manner that
ensures the maintenance of effort and that provides an annual appropriation for
clean water programs in a range of \$50 million to \$60 million as adjusted for
inflation over the duration of the Initiative.

(b) The General Assembly establishes in this subchapter a Vermont Clean
Water Fund as a mechanism for financing the improvement of water quality in
the State. The Clean Water Fund shall be used to:

(1) assist the State in ~~complying with water quality requirements and
construction or implementation of water quality projects or programs~~ the

implementation of the Clean Water Initiative;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

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(3) provide funding to ~~nonprofit organizations, regional associations, and other entities for implementation and administration of community based water quality programs or projects~~ ~~clean water service providers~~ Basin Planning Partners to meet the obligations of chapter 37, subchapter 5 of this title.

Sec. 4. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER BOARD

(a) Creation.

(1) There is created the Clean Water Board that shall:

(A) be responsible and accountable for planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

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(B) recommend to the Secretary of Administration expenditures:

- (i) appropriations from the Clean Water Fund; and
- (ii) clean water projects to be funded by capital appropriations.

(2) The Clean Water Board shall be attached to the Agency of
Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Board shall be composed
of:

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;

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- (4) the Secretary of Commerce and Community Development or
designee;
- (5) the Secretary of Transportation or designee; and
- (6) four members of the public, who are not legislators, with expertise in
one or more of the following subject matters: public management, civil
engineering, agriculture, ecology, wetlands, stormwater system management,
forestry, transportation, law, banking, finance, and investment, to be appointed

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by the Governor.

* * *

(d) Powers and duties of the Clean Water Board. The Clean Water Board shall have the following powers and authority:

* * *

(3) The Clean Water Board shall:

~~(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;~~

~~(B)~~ develop an annual revenue estimate and proposed budget for the Clean Water Fund;

~~(C)~~(B) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

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(C) if the Board determines that there are insufficient funds in the Clean Water Fund to issue all grants required by section 925(a) of this title,

conduct all of the following:

(i) Direct the Secretary of Natural Resources to prioritize the work
needed in every basin, adjust pollution allocations assigned to ~~basins-clean water~~
~~service providers~~, and issue grants based on available funding.

(ii) Make recommendations to the Governor and General

Assembly on additional revenue to address unmet needs.

(iii) Notify the Secretary of Natural Resources that there are
insufficient funds in the Fund. The Secretary of Natural Resources shall
consider additional regulatory controls to address water quality improvements
that could not be funded.

(D) issue the annual Clean Water Investment Report required under
section 1389a of this title; and

(E) solicit, consult with, and accept public comment from
organizations interested in improving water quality in Vermont regarding
recommendations under this subsection (d) for the allocation of funds from the
Clean Water Fund; ~~and~~

~~(F) establish a process under which a watershed organization, State
agency, or other interested party may propose that a water quality project or~~

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~~program identified in a watershed basin plan receive funding from the Clean
Water Fund.~~

(e) Priorities.

(4) In making recommendations under subsection (d) of this section
regarding the appropriate allocation of funds from the Clean Water Fund, the
Board shall ~~prioritize~~ recommend:

~~(A) funding to programs and projects that address sources of water
pollution in waters listed as impaired on the list of waters established by 33
U.S.C. § 1313(d);~~

~~(B) funding to projects that address sources of water pollution
identified as a significant contributor of water quality pollution, including
financial assistance to grant recipients at the initiation of a funded project;~~

(1) funding for the following grants and programs:

(A) grants to ~~clean water service providers~~ **block grant recipients** to fund the
reasonable

costs associated with the monitoring, operation, and maintenance of clean
water projects in a basin;

(B) the Water Quality Restoration Grant Program as provided under
subsection 925(a) of this title;

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(C) the Agency of Agriculture, Food, and Markets' Conservation

Reserve Enhancement Program, Farm Agronomic Practice Program, and Clean
Water Initiative Partner Grant Program; and

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(D) the Water Quality Enhancement Grants as provided in subsection
925(b) of this title, provided funding shall be at least ~~\$1,500,000.00;~~
~~\$1,500,000.00;~~

(2) to the extent that funding is available after funding grants and
programs identified under subdivision (1) of this subsection:

(A) investment in watershed planning;

~~(C)~~(B) funding to programs or projects that address or repair riparian
conditions that increase the risk of flooding or pose a threat to life or property;

~~(D) assistance required for State and municipal compliance with
stormwater requirements for highways and roads;~~

~~(E)~~(C) funding for education and outreach regarding the
implementation of water quality requirements, including funding for education,
outreach, demonstration, and access to tools for the implementation of the
Acceptable Management Practices for Maintaining Water Quality on Logging
Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and

Recreation;

~~(F)~~(D) funding for education, outreach, demonstration, and
implementation for required agricultural practices and any required best
management practices on agricultural land;

(E) funding for the Municipal Stormwater Assistance Grant as
provided in subsection 925(d) of this title;

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(F) funding for education and outreach regarding implementation of
water quality requirements;

(G) funding for innovative or alternative technologies or practices
designed to improve water quality or reduce sources of pollution to surface
waters, including funding for innovative nutrient removal technologies and
community-based methane digesters that utilize manure, wastewater, and food
residuals to produce energy; and

(H) funding for the Stormwater Implementation Grant Program as
provided in subsection 925(c) of this title

~~(G) funding to purchase agricultural land in order to take that land out
of practice when the State water quality requirements cannot be remediated~~

~~through agricultural Best Management Practices;~~

~~(H) funding to municipalities for the establishment and operation of
stormwater utilities; and~~

~~(I) investment in watershed basin planning, water quality project
identification screening, water quality project evaluation, and conceptual plan
development of water quality projects.~~

~~(2) In developing its recommendations under subsection (d) of this
section regarding the appropriate allocation of funds from the Clean Water
Fund, the Clean Water Board shall, during the first three years of its existence
and within the priorities established under subdivision (1) of this subsection~~

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~~(e), prioritize awards or assistance to municipalities for municipal compliance
with water quality requirements and to municipalities for the establishment and
operation of stormwater utilities.~~

~~(3) In developing its recommendations under subsection (d) of this
section regarding the appropriate allocation of funds from the Clean Water
Fund, the Board shall, after satisfaction of the priorities established under
subdivision (1) of this subsection (e), attempt to provide investment in all~~

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~~watersheds of the State based on the needs identified in watershed basin plans.~~

(f) Assistance. The Clean Water Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

Sec. 5. 10 V.S.A. § 8003(a) is amended to read

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

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(5) 10 V.S.A. chapter 37, relating to wetlands protection, water restoration goals and targets, and water resources management;

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* * *

Sec. 6. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

~~(20) If designated as a clean water service provider under 10 V.S.A.
§ 924, provide for the identification, prioritization, development, construction,
monitoring, operation, and maintenance of clean water projects in the basin
assigned to the regional planning commission in accordance with the
requirements of 10 V.S.A. chapter 37, subchapter 5.~~

Sec. 7. [Deleted.]

Sec. 8. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

On or before July 1, 2022, the Secretary of Natural Resources, after
consultation with the Clean Water Board, shall submit to the Senate
Committees on Appropriations, on Natural Resources and Energy, and on
Finance and the House Committees on Appropriations, on Natural Resources,
Fish, and Wildlife, and on Ways and Means recommendations regarding
implementation of a market-based mechanism that allows the purchase of

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**water quality credits by permittees under 10 V.S.A. Chapter 47, and other
entities.**

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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