



State Natural Resources Conservation Council (NRCC)

An Agency of State Government, Serving Vermont's 14 Conservation Districts

Vermont Association of Conservation Districts (VACD)

Our Land. Our Water. Our Future.

Comments and Recommendations on S.96
House Committee on Natural Resources, Fish and Wildlife
April 11, 2019

Thank you for the opportunity to speak to your committee today.

We are strongly supportive of securing a stable, long-term, and adequate funding source for Clean Water. **However, we are not currently able to support S.96 due to its proposed regional funding distribution model.**

We understand and support the intent behind this legislation - to better meet TMDL targets for phosphorus reduction, better prioritize projects, improve accountability for meeting targets, reduce administration, and strengthen long-term Operation & Maintenance (O&M) of installed projects. On the surface, these are principles we can agree on. However, the regionalized structure is significantly complicated and problematic, and is not the best or only way to meet these goals. Clean water funding should not be held hostage by this regional structure. We believe our clean water goals can be achieved by improving the existing structure. Central Block Grants between NRCC and DEC are working and were just improved. Providing this central agreement service to DEC helped reduce over 75 individual agreements DEC had with the Conservation Districts. These block grants can be improved further to become stable, multi-year agreements that include regional targets, contain improved accountability, and include a stronger system of project follow-up and O&M.

At the heart of meeting our clean water goals is to ensure that water quality project implementers can work more efficiently and effectively. This should be paramount to any clean water funding policy development or discussion. Most implementers see this regional funding model as significantly problematic. This should matter to environmental groups, to state agencies, and to legislators. We have a very long road ahead to meet our clean water goals and we must get this right.

We find ourselves in a difficult position. We have weighed extensively how to respond to this legislation. The devil is in the details, specifically in how it will work on the ground for implementers. We would rather not have to legislate all the details of our concerns. We are concerned that S.96 is already too detailed and complicated. We'd prefer a simpler and streamlined piece of legislation that maintains a central funding structure, removes funding barriers, and addresses the goals of accountability, reduction targets, and long-term maintenance. We are offering an alternative to the regional distribution model.

[Broad Concerns with S.96](#)

DEC Staffing: The primary reason we are grappling with this issue is because DEC does not have adequate staff

to effectively manage clean water programs. We strongly support an increase in DEC staff for Basin Planning, grants management, business office, and enforcement.

Agriculture: The agricultural water quality sector is a problematic component of this bill. It does not operate like other water quality sectors. The Conservation Districts' partnership with the VT Agency of Agriculture, USDA NRCS, and UVM Extension is a strong partnership. We have a single, multi-year agreement with VAAFMM with a broad scope of work. This is a well-functioning funding structure and partnership that would be fragmented and undermined by a regional structure. Further, the funding structure of S.96 is focused on non-regulatory clean water activities. With the Required Agricultural Practices, it is challenging to discern between regulatory and non-regulatory practices on farms and would need to be determined on a per-farm basis. However, we are not clear why a restructuring toward a phosphorus focused regional program would be sensible *without* agriculture since it constitutes 67% of our phosphorus reduction goal.

Basin Planning: DEC is currently tasked with creating Basin Plans, 5-year clean water plans by Basin. We are not clear why efforts would not be focused on strengthening Basin Planning and holding Basin Plans at the center of establishing targets, accountability and maintenance. This legislation instead sets up a parallel structure that circumvents DEC and does not hold DEC accountable for implementing their own plans.

Operation and Maintenance: We understand that O&M is an important component of this effort. Follow-up on installed projects has not been funded up to this point. We would welcome an opportunity to be funded to follow up on projects, provide further education and support if an entity is found to be out of compliance with their maintenance agreement, and, if projects are not adequately maintained, to refer these cases to ANR for enforcement. Currently, the legislation places this enforcement responsibility on the Clean Water Service Providers, who may vary from Basin to Basin and with no involvement from ANR.

Singular Focus on Phosphorus Reduction: We are concerned how outreach, technical assistance and integrative ecosystem services will survive under a funding system organized exclusively around phosphorus and other nutrient reduction targets. Conservation Districts provide critical outreach and technical assistance to farmers, landowners, and communities. These activities are a bridge to water quality projects. In a model where the Clean Water Service Provider must meet a phosphorus target, they are unlikely to create a contract with an organization playing this role when they're on the hook exclusively for annual phosphorus reductions. Second, there are a myriad of ecosystem investments that may not come to the table with a specific reduction metric. This singular focus on phosphorus could result in inadequate funding for critical activities.

All-in: Similarly, there is a singular focus in S. 96 on impaired waters only, which will exclude the Connecticut and Hudson River basins. The intent of Act 64 was to invest in all clean waters of the state.

Efficiency: The proposed regional funding system will not be cost-effective or time efficient and will undermine the working system of centralized block grants and the benefits of centralized grant-making. DEC can achieve greater efficiency without restructuring. DEC has already reduced the number of agreements and can reduce further. The proposed regional system would result in DEC creating agreements for 15 different service providers, with 15 different project prioritization processes, 15 different water quality sector emphases, 15 different funding application formats, rules, reporting requirements, and oversight procedures for operations and maintenance.

Accountability: 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

legal counsel staff necessary to respond to claims. 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. Strengthening accountability with partners can best be achieved through working directly with these organizations through central agreements.

Administrative and Logistical Challenges within Basins: The proposed system does not provide adequate assurances that clean water funding will be distributed in a fair and equitable manner - or distributed at all - among implementers in a basin, and does not address potential conflicts of interest when the CWSP role is assumed by one implementer. The bill could effectively undermine and exclude key water quality partners from funding while the Clean Water Service Provider “staffs up.” DEC Basin Planners are the only neutral party to equitably distribute funding regionally.

The authority of the basin water quality advisory council is not clear. S.96 mandates participation from regional planning commissions, natural resource conservation districts, watershed organizations, and municipalities in rulemaking and basin water quality advisory councils, but does not attach funding to this requirement. Clean Water Service Providers would be funded for this role, but other participants may not. There are also too many mandated participants.

Further, administrative funding for the total grant to the Clean Water Service Provider is limited to 15%. Each agreement within the basin will need to contain a portion of this administrative funding. This will reduce the administrative funding for the CWSP with each agreement and result in an inadequate and inequitable system of administrative funding within a basin.

It is critically important for local partners to collaborate, coordinate services, and work together effectively. We are significantly concerned that the regional funding distribution system would create unequal power dynamics among local water quality partners in every region of the state. We need to support organizations to effectively collaborate and coordinate services and prioritize regionally. Creating a framework where partnering organizations and entities serve together on a council to compete for funding could negatively impact these critical relationships.