

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

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

4 § 921. DEFINITIONS

5 As used in this subchapter:

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

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

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

14 (A) is not subject to a permit under chapter 47 of this title, is not
15 subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements
16 of a permit issued under chapter 47 of this title, or exceeds the requirements of
17 6 V.S.A chapter 215; ~~or~~

18 (B) is within the following activities:

19 (i) developed lands, sub-jurisdictional practices related to developed
20 lands including municipal separate storm sewers, operational stormwater
21 discharges, municipal roads, and other developed lands discharges;

Commented [L1]: We are concerned about limiting projects to impaired waters. We should be preventing waters from becoming impaired! We do not believe focusing only on impaired waters meets anti-degradation requirements in the Vermont Water Quality Standards.

1 (ii) natural resource protection and restoration, including river corridor
2 and floodplain restoration and protection, wetland protection and restoration,
3 and riparian and lakeshore corridor protection and restoration;

4 (iii) forestry; and/or

5 (iv) agriculture.

6 .

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

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

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

13 § 922. WATER QUALITY IMPLEMENTATION PLANNING AND
14 TARGETS

15 (a) After listing a water as impaired on the list of waters required by
16 33 U.S.C. § 1313(d), the Secretary shall include a strategy for returning the
17 water to compliance with the Vermont Water Quality Standards; the following
18 in any plan to implement the requirements of any total maximum daily load
19 adopted for an impaired water a strategy for returning the water to compliance
20 with the Vermont Water Quality Standards. With respect to a water that is
21 impaired due to sources outside the State or where insufficient data exists to

Commented [KL2]: Change “and” to “or” a project cannot be in all these activities at once!

Commented [L3]: I thought these funds do not apply to agriculture – that those are managed separately through AAFM?

1 quantify reductions required by this subchapter the Secretary shall not be
2 required to implement the requirements of this subchapter, however, the
3 Secretary shall provide an alternate strategy for attaining water quality
4 standards. For waters determined to be subject to this subchapter, the
5 Secretary shall include the following in an implementation plan:

6 (1) An evaluation of whether implementation of existing regulatory
7 programs will achieve water quality standards in the impaired water. If the
8 Secretary determines that existing regulatory programs will not achieve water
9 quality standards, the Secretary shall determine the amount of additional
10 pollutant reduction necessary to achieve water quality standards in that water.
11 When making this determination, the Secretary may express the pollutant
12 reduction in a numeric reduction or through defining a clean water project that
13 must be implemented to achieve water quality standards.

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

1 (3) A determination of the standard cost per unit of pollutant reduction.
2 The Secretary shall publish a methodology for determining standard cost
3 pollutant reductions. The standard cost shall include the costs of project
4 identification, project design, ~~and~~ project construction, operations, and
5 maintenance, education and outreach .

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

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

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

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

14 (2) By not later than November 1, 2023, the Secretary shall adopt a
15 schedule for implementing the requirements of this chapter in all other
16 previously listed impaired waters not set forth in subdivision (1) of this
17 subsection.

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

20 § 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN
21 WATER PROJECTS

Commented [L4]: It is unclear whether there will be funds available for these waters as the requirements are being determined. It is important to continue efforts in the interim.

1 (a) After listing a water as impaired on the list of waters required by
2 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating
3 pollution reduction values associated with a clean water project in that water.

4 ~~Values shall include protection from future pollution input as well as reduction~~
5 ~~of current inputs. Pollution reduction values established by the Secretary shall~~
6 ~~be the exclusive method for determining the pollutant reduction value of a~~
7 ~~clean water project.~~

Commented [L5]: Protection is less expensive and more efficient than restoration. It feels important that we give “value” to protection efforts such as river corridor easements.

8 (b) After listing a water as impaired on the list of waters required by
9 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for
10 establishing a design life associated with a clean water project. The design life
11 of a clean water project shall be determined based on a review of values
12 established in other jurisdictions, values recommended by organizations that
13 regularly estimate the design life of clean water projects, actual data
14 documenting the design life of a practice, or a comparison to other similar
15 practices if no other data exists. A design life adopted by the Secretary shall
16 be the exclusive method for determining the design life of a best management
17 practice or other control.

Commented [L6]: Again – concern about allowing our waters to become “impaired” before providing funding for their protection and restoration.

18 (c)(1) If a person is proposing a clean water project for which no pollution
19 reduction value or design life exists for a listed water, the Secretary shall
20 establish a pollution reduction value or design life for that clean water project
21 within ~~60~~ 14 days of a request from the person proposing the clean water

1 project. When establishing a pollutant reduction value the Secretary shall
2 consider: pollution reduction values established in the TMDL; pollution
3 reduction values established by other jurisdictions; pollution reduction values
4 recommended by organizations that develop pollutant reduction values for a
5 clean water project; applicable monitored data with respect to a clean water
6 project, if available; modeled data, if available; or a comparison to other
7 similar projects or programs if no other data on a pollution reduction value or
8 design life exists. Any estimate developed under this subsection by the
9 Secretary shall be posted on the Agency of Natural Resources' website.

10 (2) Upon the request of a clean water service provider, the Secretary
11 shall evaluate a proposed clean water project and issue a determination as to
12 whether the proposed clean water project is eligible to receive funding as a part
13 of a Water Quality Restoration Grant awarded by the State pursuant to
14 subsection 925(a) of this title.

15 (d)(1) The Secretary shall conduct the analysis required by subsections (a)
16 and (b) of this section for clean water projects and design lives related to
17 phosphorous, not later than November 1, 2021.

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

20 (2) By not later than November 1, 2023 ~~2020~~, the Secretary shall adopt a
21 schedule for implementing the requirements of subsections (a) and (b) of this

Commented [L7]: B has now been crossed out so the rest of the section needs to be modified accordingly.

1 section for clean water projects and design lives related to all other
2 impairments not listed under subdivision (1) of this subsection.

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

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

9 § 924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR
10 CLEAN WATER PROJECTS

11 (a) Clean water service providers; establishment.

12 (1) On or before November March 1, 2020, the Secretary shall adopt
13 rules that assign a clean water service provider to each basin in the Lake
14 Champlain and Lake Memphremagog watersheds for the purposes of achieving
15 pollutant reduction values established by the Secretary for the basin and for
16 identification, design, construction, operation, and maintenance, education and
17 outreach of clean water projects within the basin. For all other impaired
18 waters, the Secretary shall assign clean water service provider no later than six
19 months in advance of the implementation of the program required by this
20 subchapter. The rulemaking shall be done in consultation with regional

Commented [L8]: Again – ensure that funds are still available for projects in those basins pending rulemaking.

1 planning commissions, natural resource conservation districts, watershed
2 organizations, and municipalities located within each basin.

3 (2) An entity designated as a clean water service provider shall, in
4 consultation with the basin water quality advisory council established under
5 subsection (g) of this section, be required to identify, prioritize, develop,
6 construct, inspect monitor, operate, and maintain clean water projects in
7 accordance with the requirements of this subchapter 5.

8 (3) The Secretary shall adopt guidance on a clean water service
9 provider's obligation with respect to implementation of this chapter. At a
10 minimum the guidance shall address how the clean water service provider
11 integrates basin planning into its project prioritization and selection process,
12 minimum requirements with respect subgrantee guidance, requirements
13 associated with the distribution of administrative costs to the clean water
14 service provider and subgrantees, how the Secretary will assist clean water
15 service providers with respect to their maintenance obligations pursuant to
16 subsection (c) of this section, and the Secretary's strategy with respect to
17 progressive accountability pursuant to subsection (f) of this section.

18 (4) In carrying out its duties, a clean water service provider shall adopt
19 guidance for subgrants that establishes a policy for how the clean water service
20 provider will issue subgrants to other organizations in the basin, giving due
21 consideration to the expertise of those organizations and other requirements for

Commented [L9]: We are glad to see this section as a way to address the good governance and conflict of interest issues we have raised. It will be important that the guidance address these issues fully and that the guidance is not optional but mandatory.

1 the administration of the grant program. The subgrant guidance shall include
2 how the clean water service provider will allocate administrative costs to
3 subgrantees and for the administrative costs of the basin water quality advisory
4 council. The subgrant guidance shall be subject to the approval of the
5 Secretary and basin water quality advisory council.

Commented [L10]: Once again – thank you for addressing some of our concerns.

6 (5) When selecting clean water projects for implementation or funding,
7 a clean water service provider shall prioritize projects identified in the basin
8 plan for the area where the project is located and shall consider the pollutant
9 targets provided by the Secretary and the recommendations of the basin water
10 quality advisory council.

11 (b) Project identification, prioritization, selection. When identifying,
12 prioritizing, and selecting an activity to meet a pollution reduction value, the
13 clean water service provider may shall consider the pollution reduction value
14 or pollution prevention value associated with the clean water project, the
15 tactical basin plan, and other water quality benefits beyond pollution reduction
16 associated with that clean water project. All selected projects shall be entered
17 into the watershed projects database, in no particular order of priority, funding
18 clean water projects in the following sectors:

19 (1) developed lands, sub-jurisdictional practices related to developed
20 lands including municipal separate storm sewers, operational stormwater
21 discharges, municipal roads, and other developed lands discharges;

1 ~~(2) natural resource protection and restoration, including river corridor~~
2 ~~and floodplain restoration and protection, wetland protection and restoration,~~
3 ~~and riparian and lakeshore corridor protection and restoration;~~

4 ~~(3) forestry; and~~

5 ~~(4) agriculture.~~

6 (c) Maintenance responsibility. A clean water service provider shall be
7 responsible for maintaining a clean water project or ensuring the maintenance
8 for at least its the entirety of the design life of that clean water project. The
9 Secretary shall provide funding for maintenance consistent with subdivision
10 1391(E)(1)(A) of this title.

11 (d) Water quality improvement work. If a clean water service provider
12 achieves a greater level of pollutant reduction than a pollution reduction goal
13 or five-year target established by the Secretary, the clean water service
14 provider may carry those reductions forward into a future year. If a clean
15 water service provider achieves its pollutant reduction goal or five-year target
16 and has excess grant funding available, a clean water service provider may use
17 those funds towards other eligible projects, operation and maintenance
18 responsibilities for existing constructed projects, projects within the basin that
19 are required by federal or State law, or other work that improves water quality
20 within the geographic area of the basin, including protecting river corridors,
21 aquatic species passage, and other similar projects.

- 1 (e) Reporting. A clean water service provider shall report annually to the
2 Secretary. ~~The report from clean water service providers shall be integrated~~
3 into the annual clean water investment report, including outcomes from the
4 work performed by clean water service providers. The report shall contain the
5 following:
- 6 (1) a summary of all clean water projects completed that year in the
7 basin;
- 8 (2) a summary of any inspections of previously implemented clean
9 water projects and whether those clean water projects continue to operate in
10 accordance with their design;
- 11 (3) all ~~indirect and~~ administrative costs incurred by the clean water
12 service provider;
- 13 (4) a list of all of the subgrants awarded by the clean water service
14 provider in the basin; and
- 15 (5) all data necessary for the Secretary to determine the pollutant
16 reduction achieved by the clean water service provider during the prior year.
- 17 (f) Accountability for pollution reduction goals. If a clean water service
18 provider fails to meet its allocated pollution reduction goals or its five-year
19 target or fails to maintain previously implemented clean water projects the
20 Secretary shall take appropriate steps to hold the clean water service provider

1 accountable for the failure to meet pollution reduction goals or its five-year
2 target. The Secretary may take the following steps:

3 (1) Enter a plan to ensure that the clean water service provider meets
4 current and future year pollution reduction goals and five-year targets:

5 (2) Assess penalties established as a term of its grant agreement with the
6 clean water service provider which shall increase based on the frequency and
7 severity of ~~Initiate an enforcement action pursuant to chapter 201 or 211 of~~
8 this title for the failure of a clean water service provider's failure to meet its
9 obligations; or

10 (3) Initiate rulemaking to designate an alternate clean water service
11 provider as accountable for the basin.

12 (g) Basin water quality advisory ~~council.~~

13 (1) A clean water service provider designated under this section shall
14 establish a basin water quality advisory council for each assigned basin. The
15 purpose of a basin water quality advisory council is to establish policy and
16 make significant decisions for ~~make recommendations to~~ the clean water
17 service provider regarding the most significant water quality impairments that
18 exist in the basin and prioritizing the projects that will address those
19 impairments based on the basin plan. A basin water quality council shall also
20 participate in the basin planning process.

Commented [L11]: There are some areas above where advisory is still present.

- 1 (2) A basin water quality ~~advisory~~ council shall not exceed 11
2 individuals and should include, at a minimum, the following:
- 3 (A) two people representing representatives from each natural
4 resource conservation districts in that basin, selected by the applicable natural
5 resource conservation district;
- 6 (B) two people representing regional planning commissions in that
7 basin, selected by the applicable regional planning commission;
- 8 (C) two people representing representatives from each local
9 watershed protection organization operating in that basin, selected by the
10 applicable watershed protection organization(s);
- 11 (D) one representative from an applicable local or statewide land
12 conservation organizations selected by the conservation organization in
13 consultation with the clean water service provider; and
- 14 (E) two people representing municipalities representatives from each
15 municipality within the basin, selected by the clean water service provider in
16 consultation with municipalities in the basin.
- 17 (3) The designated clean water service provider and the Agency of
18 Natural Resources shall provide technical staff support to the basin water
19 quality advisory council. The clean water service provider may invite support
20 from persons with specialized expertise to address matters before a basin water
21 quality advisory council, including support from the University of Vermont

1 Extension, staff of the Agency of Natural Resources, and staff of the Agency
2 of Agriculture, Food, and Markets, Natural Resource Conservation Service,
3 United States Department of Fish and Wildlife, and United States Forest
4 Service.

5 § 925. WATER QUALITY GRANT PROGRAMS

6 (a) The Secretary shall administer a Water Quality Restoration Formula
7 Grant Program to award grants to clean water service providers to meet the
8 pollution reduction requirements under this subchapter. The grant amount
9 shall be based on the annual pollutant reduction goal established for the clean
10 water service provider multiplied by the standard cost for pollutant reduction
11 including the costs of administration and reporting. No more than 15 percent
12 of the total grant amount awarded to a clean water service provider shall be
13 used for administrative costs.

14 (b) The Secretary shall administer a Water Quality Enhancement Grant
15 Program. This program shall be a competitive grant program to fund projects
16 that protect high quality waters, create resilient- watersheds and
17 communities, and projects to maintain or improve water quality in
18 all waters (antidegradation) support promote the public's use and enjoyment of
19 the State's waters. When making awards under this program, the Secretary
20 shall consider the geographic distribution of these funds, cost effectiveness of
21 an award and the funding needs of each basin. No more than 15 percent of the

Commented [L12]: If (which we hope it does) there is no funding through the CWSP for waters that are not yet impaired – those waters should be included here – otherwise this addresses High Quality Waters, and the CWSP address impaired waters but nothing addresses the large number of waters in between.

1 total grant amount awarded ~~to a clean water service provider~~ shall be used for
2 administrative costs.

3 (c) The Secretary shall administer a Stormwater Implementation Grant
4 Program to provide grants ~~or a financing~~ to persons who are required to obtain
5 a permit to implement regulatory requirements that are necessary to achieve
6 water quality standards. The grant ~~or financing~~ program shall only be
7 available in basins where a clean water service provider has met its annual
8 goals or is making sufficient progress, as determined by the Secretary, towards
9 those goals. This grant program may fund projects related to the permitting of
10 impervious surface of three acres or more under subdivision 1264(g)(3) of this
11 title. No more than 15 percent of the total grant amount awarded ~~to a clean~~
12 water service provider shall be used for administrative costs.

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

21 § 926. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

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

4 § 927. RULEMAKING

5 The Secretary ~~may~~ shall adopt rules to implement the requirements of this
6 subchapter.

7 Sec. 2. 10 V.S.A. § 1253(d)(2) **and (3) are** amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

14 (3) The Secretary shall, contingent upon the availability of funding,
15 negotiate and issue performance grants to the Vermont Association of Planning
16 and Development Agencies or its designee and the Natural Resources
17 Conservation Council or its designee and to Watersheds United Vermont or its
18 designee to assist in or to produce a basin plan under the schedule set forth in
19 subdivision (1) of this subsection in a manner consistent with the authority of
20 regional planning commissions under 24 V.S.A. chapter 117 and the authority
21 of the natural resources conservation districts under chapter 31 of this title.

1 When negotiating a scope of work with the Vermont Association of Planning
2 and Development Agencies or its designee, ~~and~~ the Natural Resources
3 Conservation Council or its designee, and Watersheds United Vermont or its
4 designee to assist in or produce a basin plan, the Secretary may require the
5 Vermont Association of Planning and Development Agencies, ~~or~~ the Natural
6 Resources Conservation Council, or Watersheds United Vermont to:
7 (A) conduct any of the activities required under subdivision (2) of this
8 subsection (d);
9 (B) provide technical assistance and data collection activities to inform
10 municipal officials and the State in making water quality investment decisions;
11 (C) coordinate municipal planning and adoption or implementation of
12 municipal development regulations better to meet State water quality policies
13 and investment priorities; or
14 (D) assist the Secretary in implementing a project evaluation process to
15 prioritize water quality improvement projects within the region to ensure cost-
16 effective use of State and federal funds.

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

18 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

19 (a)(1) The State has committed to implementing a long-term Clean Water
20 Initiative to provide mechanisms, staffing, and financing necessary to achieve

Commented [L13]: Thank you for recognizing the value of watershed group input into TBP! Please add WUV above as well.

1 and maintain compliance with the Vermont Water Quality Standards for all
2 State waters.

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

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

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

9 (C) the Agency of Natural Resources' Combined Sewer
10 Overflow Rule; and

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

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

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

1 (1) assist the State in ~~complying with water quality requirements and~~
2 ~~construction or implementation of water quality projects or programs~~ the
3 implementation of the Clean Water Initiative;

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

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

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

14 § 1389. CLEAN WATER BOARD

15 (a) Creation.

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

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

20 (B) recommend to the Secretary of Administration expenditures:

21 (i) appropriations from the Clean Water Fund; and

1 (ii) clean water projects to be funded by capital appropriations.

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

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

6 (1) the Secretary of Administration or designee;

7 (2) the Secretary of Natural Resources or designee;

8 (3) the Secretary of Agriculture, Food and Markets or designee;

9 (4) the Secretary of Commerce and Community Development or
10 designee;

11 (5) the Secretary of Transportation or designee; and

12 (6) four members of the public, who are not legislators, with expertise in
13 one or more of the following subject matters: public management, civil
14 engineering, agriculture, ecology, wetlands, stormwater system management,
15 forestry, transportation, law, banking, finance, and investment, to be appointed
16 by the Governor.

17 * * *

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

20 * * *

21 (3) The Clean Water Board shall:

- 1 (A) ~~establish a process by which watershed organizations, State~~
2 ~~agencies, and other interested parties may propose water quality projects or~~
3 ~~programs for financing from the Clean Water Fund;~~
- 4 ~~(B)~~ develop an annual revenue estimate and proposed budget for the
5 Clean Water Fund;
- 6 ~~(C)~~(B) establish measures for determining progress and effectiveness
7 of expenditures for clean water restoration efforts;
- 8 (C) if the Board determines that there are insufficient funds in the
9 Clean Water Fund to issue all grants required by section 925(a) of this title,
10 conduct all of the following:
- 11 (i) Direct the Secretary of Natural Resources to prioritize the work
12 needed in every basin, adjust pollution allocations assigned to clean water
13 service providers, and issue grants based on available funding.
- 14 (ii) Make recommendations to the Governor and General
15 Assembly on additional revenue to address unmet needs.
- 16 (iii) Notify the Secretary of Natural Resources that there are
17 insufficient funds in the Fund. The Secretary of Natural Resources shall
18 consider additional regulatory controls to address water quality improvements
19 that could not be funded.
- 20 (D) issue the annual Clean Water Investment Report required under
21 section 1389a of this title; and

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

5 (F) ~~establish a process under which a watershed organization, State~~
6 ~~agency, or other interested party may propose that a water quality project or~~
7 ~~program identified in a watershed basin plan receive funding from the Clean~~
8 ~~Water Fund.~~

9 (e) Priorities.

10 (↔) In making recommendations under subsection (d) of this section
11 regarding the appropriate allocation of funds from the Clean Water Fund, the
12 Board shall ~~prioritize as follows;~~ prioritize as follows:

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

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

19 (1) as a first priority, make recommendations regarding funding for the
20 following grants and programs:

1 (A) grants to clean water service providers to fund the reasonable
2 costs associated with the inspection monitoring operation, and maintenance of
3 clean water projects in a basin;

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

6 (C) the Agency of Agriculture, Food, and Markets' Conservation
7 Reserve Enhancement Program, Farm Agronomic Practice Program, and Clean
8 Water Initiative Partner Grant Program; and

9 (D) the Water Quality Enhancement Grants as provided in subsection
10 925(b) of this title, provided funding shall be at least \$5,000,000.00;

11 and

12 (E) funding to partners for basin planning, education, and outreach as
13 provided in subdivision 1253(d)(3) of this title, provided funding shall be at
14 least \$500,000.00.

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

17 (A) investment in watershed planning;

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

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

Commented [L14]: Partnership programs through DEC? We should have partner grant programs through AAFM and DEC if we are to build the appropriate capacity at the local level.

Commented [L15]: These are now the ONLY funds for projects other than those specifically addressing nutrient reduction targets. This means project for all other parts of the state plus any project that focuses on very important co-benefits. \$1.5 million would not be even close to sufficient for actually addressing clean water goals in the state. \$5 million would show continued commitment to clean water and healthy watersheds and not just phosphorus reduction! We believe that closer to \$7 to \$10 million would be more appropriate but feel at least a minimum of \$5 million shows commitment by the state. These state funds are also critical for leveraging private and federal funds.

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1 ~~(E)~~**(B)** funding for education and outreach regarding the
2 implementation of water quality requirements, including funding for education,
3 outreach, demonstration, and access to tools for the implementation of the
4 Acceptable Management Practices for Maintaining Water Quality on Logging
5 Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and
6 Recreation;

7 ~~(F)~~**(C)** funding for education, outreach, demonstration, and
8 implementation for required agricultural practices and any required best
9 management practices on agricultural land;

10 **(D)** funding for the Municipal Stormwater Assistance Grant as
11 provided in subsection 925(d) of this title;

12 ~~(E) funding for education and outreach regarding implementation of~~
13 ~~water quality requirements;~~

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

19 ~~(H) funding for the Stormwater Implementation Grant Program as~~
20 ~~provided in subsection 925(c) of this title; and~~

Commented [L16]: Funding for Education and Outreach is critical for reaching our targets and should not be an afterthought!

1 ~~(E)~~ **(G)** funding to purchase agricultural land in order to take that land
2 out of practice when the State water quality requirements cannot be remediated
3 through agricultural Best Management Practices;

4 **(3)** to the extent that funding is available after funding grants and
5 programs identified under subdivisions (1) and (2) of this subsection funding
6 for the Stormwater Implementation Grant Program as provided in subsection
7 **925(c) of this title**

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

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

13 ~~(2)~~ In developing its recommendations under subsection (d) of this
14 section regarding the appropriate allocation of funds from the Clean Water
15 Fund, the Clean Water Board shall, during the first three years of its existence
16 and within the priorities established under subdivision (1) of this subsection
17 ~~(e)~~, prioritize awards or assistance to municipalities for municipal compliance
18 with water quality requirements and to municipalities for the establishment and
19 operation of stormwater utilities.

20 ~~(3)~~ In developing its recommendations under subsection (d) of this
21 section regarding the appropriate allocation of funds from the Clean Water

1 ~~Fund, the Board shall, after satisfaction of the priorities established under~~
2 ~~subdivision (1) of this subsection (e), attempt to provide investment in all~~
3 ~~watersheds of the State based on the needs identified in watershed basin plans.~~

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

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

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

16 * * *

17 (5) 10 V.S.A. chapter 37, relating to wetlands protection, water
18 restoration goals and targets, and water resources management;

19 * * *

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

21 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

1 A regional planning commission created under this chapter shall:

2 * * *

3 (20) If designated as a clean water service provider under 10 V.S.A.
4 § 924, provide for the identification, prioritization, development, construction,
5 inspection ~~monitoring~~, operation, and maintenance of clean water projects in
6 the basin assigned to the regional planning commission in accordance with the
7 requirements of 10 V.S.A. chapter 37, subchapter 5.

8 Sec. 7. [Deleted.]

9 Sec. 8. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

10 On or before July 1, 2022, the Secretary of Natural Resources, after
11 consultation with the Clean Water Board, shall submit to the Senate
12 Committees on Appropriations, on Natural Resources and Energy, and on
13 Finance and the House Committees on Appropriations, on Natural Resources,
14 Fish, and Wildlife, and on Ways and Means recommendations regarding
15 implementation of a market-based mechanism that allows the purchase of
16 water quality credits by permittees under 10 V.S.A. Chapter 47, and other
17 entities.

18 Sec. 9. EFFECTIVE DATE

19 This act shall take effect on July 1, 2019.