

ENVIRONMENTAL PROTECTION

Clean Water Fund and Capital Bill Appropriations FY20



- **WHAT:** The Clean Water Fund was established by Act 64 of 2015 for the purpose of providing additional state funds to help municipalities, farmers, and others implement actions that will reduce pollution washing into Vermont's rivers, streams, lakes, ponds, and wetlands.

Current law revenues dedicated to the Clean Water Fund include:

- Approximately \$5 million per year generated from a 0.2% surcharge on the property transfer tax (PTT); and
- Approximately \$2 million per year (\$1 million in FY20 because only 6 months) in unclaimed beverage container deposits remitted to the State.

The Governor has proposed a multi-year transition to dedicating estate tax revenues to the fund, beginning with \$8 million in FY20. With this additional source of revenue in FY20, \$15 million will be available for allocation from the Clean Water Fund.

- **CLEAN WATER BOARD:** Current law requires the Clean Water Board to recommend to the Secretary of Administration expenditures from the Clean Water Fund and to allocate the clean water projects appropriated for that purpose in the Capital Bill.
- **CLEAN WATER FY20 BUDGET:** At its December 21, 2018 meeting, the Clean Water Board recommended that a total of \$28.35 million from the Clean Water Fund and proposed FY20 Capital Bill be appropriated as follows:
 - \$9.64 million for work in the agricultural sector, including \$2.8 million for land conservation and water quality project work by VHCB
 - \$2.55 million for innovation and partner support
 - \$2.8 million for natural resources restoration
 - \$7.45 million to manage stormwater runoff from developed land and roads
 - \$5.91 million for wastewater treatment
 - \$25,000 to start work on a statutorily required clean water audit
- **GOVERNOR'S RECOMMENDED FY20 CLEAN WATER ALLOCATIONS:** The Governor's proposed budget allocated the \$28.35 million as recommended by the Clean Water Board. The Governor was, however, able to reduce reliance on the capital bill by \$2.85 million. The Governor's recommended state revenue sources to fund the \$28.35 million allocation are as follows:
 - \$12.15 million in Capital Funds
 - \$15.1 million in Clean Water Funds
 - \$1.1 million in the Transportation Bill

With an additional \$19.26 million in federal funding being leveraged by our state dollars, approximately \$47.61 million in state and federal funds are allocated to clean water projects.

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ENVIRONMENTAL PROTECTION

Clean Water Funding – Long Term Approach



- **WHAT:** The Governor is committed to providing long-term funding for funding clean water programs. The Administration proposes to fund clean water efforts with a suite of existing revenue sources – primarily the estate tax and the property transfer tax. The combination of these revenue sources provides a predictable stream of funding on an annual basis which, in turn, provides consistency that partners can rely on in developing and implementing clean water projects.

It is anticipated that Vermont’s total clean water appropriations will increase from \$47.61 million in FY20 to between \$50-60 million per year by FY24 and be sustained at this level for 20 years in order to fulfill the commitments made in Act 64. The suite of revenue sources will include: Clean Water Funds; Capital Bill appropriations; and, Transportation Bill appropriations. In turn, these funds will be used to leverage additional federal dollars that flow through the state budget, primarily thru the Clean Water State Revolving Fund (SRF) and Federal Highway Surface Transportation Block Grant (STBG) Fund, for clean water work.

The anticipated allocations from these sources are anticipated as follows:

- Clean Water Fund: \$25-28 million/year
- Capital Bill: \$10-12 million/year
- Transportation Bill: \$5 million/year
- Leveraged federal funds: \$10-12 million/year

The revenue sources that have been identified to ensure the Clean Water Fund is sustained at this level are:

- Property Transfer Tax (PTT) 0.2% surcharge: \$5 million/year
- Unclaimed beverage container deposits (escheats): \$2 million/year
- Estate Tax: \$8-11 million/year
- Additional PTT allocation to clean water: \$10 million/year

- **WHY:** The quality of Vermont’s rivers, streams, ponds and lakes, and our natural environment as a whole, is one reason Vermont is the healthiest state in the nation and offers such a high quality of life that keeps and attracts families and jobs.

Over the next 20 years, Vermont – both the public and private sectors – will need to invest \$2.3 billion to meet federal and state clean water goals.¹ This effort will require the construction and on-going stewardship of thousands of water quality projects across the landscape. Some projects will be required by permits or regulations, while others will be “above and beyond” or non-regulatory activities that are necessary to restore and maintain the quality of Vermont’s rivers, streams, lakes and ponds.

¹ According to State Treasurer’s 2017 report (www.vermonttreasurer.gov/sites/treasurer/files/committees-and-reports/FINAL_CleanWaterReport_2017.pdf)

The Legislature has voiced a preference for using a revenue source that has a nexus to the issue of clean water and popular concept is either a per parcel tax or an impervious surface tax. The Administration is choosing to use the Estate Tax as dedicated revenue, as property transfer has been accepted as having a nexus to clean water, and the Estate Tax does represent a real estate property transfer in about half of the estates examined.

- **HOW:** The Governor’s proposed budget for FY20 will redirect a portion of the Estate Tax revenue from the General Fund to the Clean Water Fund. The Administration anticipates that all Estate Tax revenue will be directed to the Clean Water Fund starting in FY22, and that revenues to the Clean Water Fund will be further augmented by an additional allocation from the PTT.

Year	Exclusion Amount (Millions)	Revenue (Millions - Approx)	Clean H2O Need	Estate Tax to Clean H2O	Property Transfer Tax to Clean H2O	Lost GF Revenue (Millions)	GF Year to Year Change (Millions)
FY19	\$2.75 (Current Law)	19.9	-	-	-	-	-
FY20	\$3.50	20.2	8	8	-	-8.9	-8.9
FY21	\$4.25	15.3	12	12	-	-17.8	-8.9
FY22	\$5.00	13.1	18.8	13.1	5.7	-26.8	-9
FY23	\$5.75	11.5	20.9	11.5	9.4	-30.5	-3.7
FY24	\$5.75	11.1	20.7	11.1	9.6	-30.7	-.2

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Environmental Protection

Strengthening Clean Water Project Implementation & Improving Regulations



- **INTRO:** Over the next 20 years, Vermont – both the public and private sectors – will need to invest \$2.3 billion to meet federal and state clean water goals.¹ This effort will require the construction and on-going stewardship of thousands of water quality projects across the landscape. Some projects will be required by permits or regulations, while others will be “above and beyond” or non-regulatory activities that are necessary to restore and maintain the quality of Vermont’s rivers, streams, lakes and ponds. Above-and-beyond activities are not required by permits or regulations but are necessary to achieve Vermont’s water quality standards and remove waterbodies from the list of impaired waters.
- **WHAT:** The Agency of Natural Resources and Agency of Administration propose establishing Clean Water Districts to achieve clean water targets and anticipates the State will provide full funding to implement projects not currently required by regulatory programs administered by the Agency of Natural Resources and Agency of Agriculture, Food & Markets. A network of Clean Water Districts will have the ability to partner with municipalities, regional planning commissions and conservation districts, as well as directly to municipalities, to identify, tackle and sustain critical water quality improvement projects.

Clean Water Districts will be provided with reliable block grant funding for water quality projects over multiple years, incentivizing districts to take on the most productive water quality projects within their service area first. This multi-year financial stability also helps them build clean water programs tailored to their communities in meeting pollution reduction targets provided by ANR. Districts can also seek other opportunities to leverage clean water fund dollars to invest in projects that provide multiple benefits like conserving land, reducing the risk of flooding or other disasters, and improving wildlife habitat.

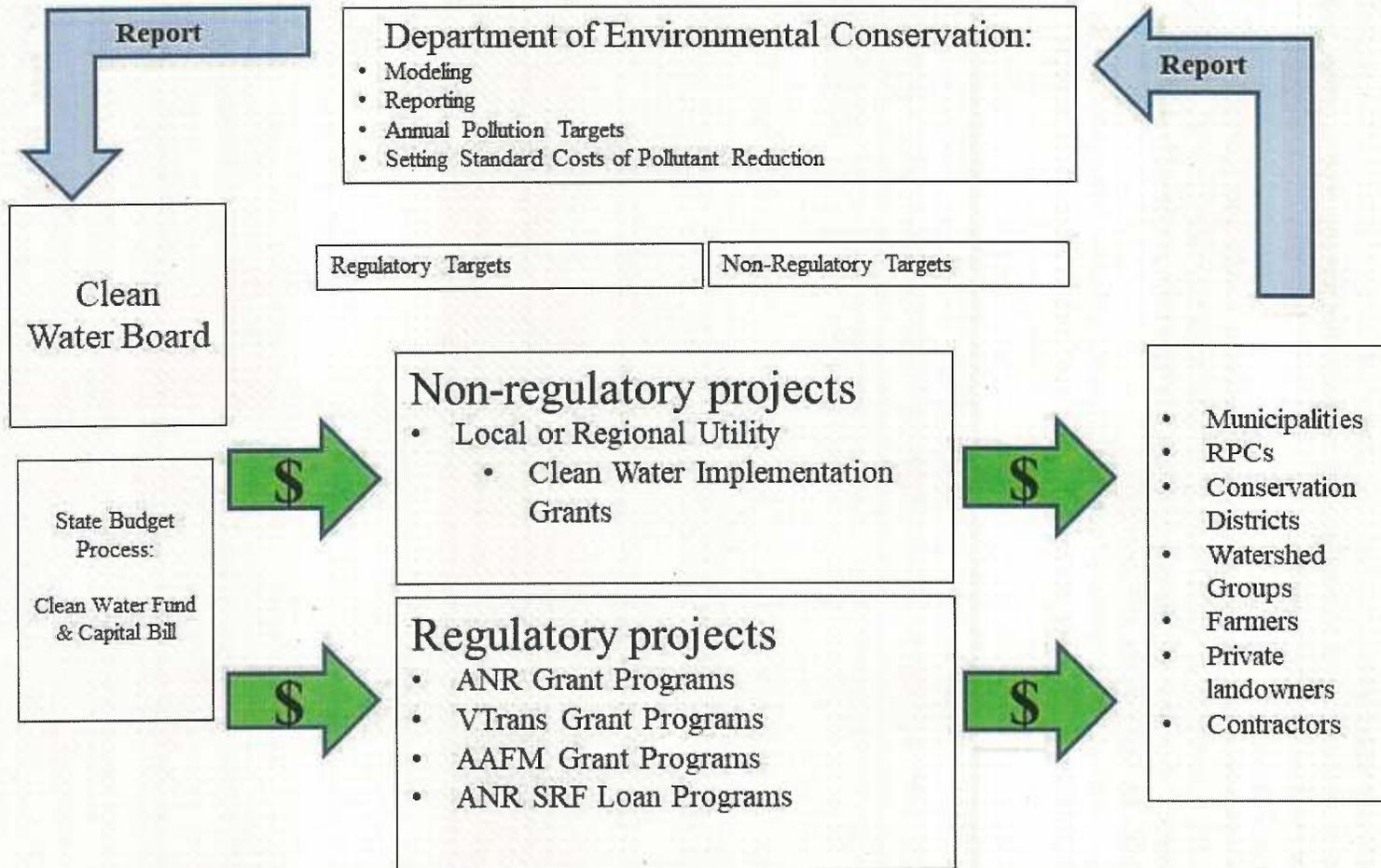
- **WHY:** The quality of our water, and our natural environment as a whole, is one reason Vermont is the healthiest state in the nation and offers such a high quality of life that keeps and attracts families and jobs. This is a critical time to bring local community leaders and State officials together to build a foundation for the next 20 years of clean water work. Protecting, maintaining, and restoring our water resources requires a shared commitment to make smart investments that prioritize cost-effective solutions, and provide long-term sustainable funding.
- **HOW:** The State of Vermont will maintain a lead role in water quality monitoring, planning and assessment, as well as track the results of individual projects and programs, ensuring they are having the anticipated cumulative impact. The State will also provide high-level guidance and oversight to clean water districts but will not be directly involved in project selection or implementation.
 - The proposed legislation requires the Agency of Natural Resources (ANR) to:
 - Set clean water goals for activities that go above and beyond (non-regulatory) and allocate pollutant reduction targets for above-and-beyond activities to clean water districts;

¹ According to State Treasurer’s 2017 report (www.vermonttreasurer.gov/sites/treasurer/files/committees-and-reports/FINAL_CleanWaterReport_2017.pdf)

January 24, 2019

- Estimate the effectiveness of the most common stormwater and agricultural practices;
- Issue block grants to clean water districts to reach pollution reduction targets set by the State for above-and-beyond activities; and
- Track clean water districts' progress in meeting pollutant reduction targets.
- The Clean Water Board will:
 - Make recommendations to the Governor regarding funding required to achieve clean water goals established by ANR.
- Clean Water Districts will:
 - Use clean water funds to implement projects, directly and/or with partners;
 - Annually report their progress meeting pollution reduction targets for above-and-beyond activities. Failure to meet the targets over a five-year time period will result in loss of eligibility for State grants and contracts;
 - Have authority to raise revenues, adopt ordinances, and enter into contracts; and
 - Be responsible for on-going operation and maintenance of clean water projects.

Clean Water Redesign (1/9/2019)



State apportions a category of funds directly to a district/utility or municipality to support implementation based on a formula. Municipalities report back to state funding agencies or district/utility to certify compliance.

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State of Vermont
Agency of Natural Resources

Julia S. Moore, P.E.
Agency Secretary

Peter W. Walke
Deputy Secretary

February 8, 2019

Deborah Szaro, Acting Administrator
EPA New England Region
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Dear Acting Administrator Szaro:

I am reaching out to seek clarity regarding the requirements surrounding EPA's reasonable assurance and accountability framework identified in the Lake Champlain Total Maximum Daily Load (LC TMDL). Specifically, the accountability framework obligates the State of Vermont to secure a long-term revenue source to support the water quality improvements necessary to meet Vermont Water Quality Standards and the LC TMDL.

Both the State's Phase I Implementation Plan and the LC TMDL identify that a long-term funding source is necessary. However, neither plan establishes any substantive requirements associated with making a determination of what funding level is suitable to meet reasonable assurance obligations under Chapter 7 of the LC TMDL (<https://www.epa.gov/sites/production/files/2016-06/documents/phosphorus-tmdls-vermont-segments-lake-champlain-jun-17-2016.pdf>).

As described in the enclosed white papers, Governor Scott has proposed a framework to quantify the load reduction obligations that exist under the LC TMDL and to fund sufficient projects to meet those pollution reduction objectives. This process provides a structure for tracking load reductions and annually assessing the financial resources needed to achieve the load reductions required by the TMDL. The framework is being actively discussed during the 2019 legislative session.

The State believes this process, which includes a methodology to both assign pollution reduction values to load reduction projects and practices and to fund them, is sufficient to meet the State's obligation to secure long-term funding, provided that the State ensures grants for non-regulatory projects are fully funded or that any shortfall is promptly addressed as provided in the proposed bill (see enclosure). The State believes that this approach demonstrates how the process will assure pollutant reduction to meet load reductions, and ensure that over time, as the cost of practices changes, the State commits sufficient money to support the implementation of these practices.

By way of perspective, in SFY16 and SFY17, the State spent roughly \$29 million a year on clean water efforts, including federal funds that pass through the State budget, and not including the Clean Water Fund. In the Treasurer's Report of January 2017, the Treasurer recommended investing in clean water an additional \$25 million a year comprised of capital funds (\$15 million), highway funds (\$5 million), and Clean Water Funds (\$5 million). The Governor adopted the Treasurer's funding recommendation for SFY18 and SFY19, as did the Vermont Legislature, resulting in an investment of an average of \$53 million a year on clean water efforts in SFY18 and SFY19.

The Governor's long-term - SFY20 and future years - clean water budget proposal sustains funding for clean water work at \$50-60 million per year, and includes the following funding sources:

- Clean Water Fund (\$25 to 28 million/year)
- Capital Bill (\$10-12 million/year)
- Transportation Bill (\$5 million/year)
- Leveraged federal funds (\$10-12/year)

The Governor's proposal is consistent with the Treasurer's January 2017 recommendation and is greater than the minimum level of State revenues (\$21 million/year) identified by the Clean Water Quality Working Group's Act 73 Report.

Water quality improvements are and will continue to be implemented over the twenty-year life of the LC TMDL; there is inherent variability in the size, scope and cost of each project. Notwithstanding the important context provided by the Treasurer's Report and the Act 73 report, rather than asking EPA to review and approve a specific annual funding number, we are seeking EPA's concurrence that the process the State is proposing will adequately account for and support load-based pollution reduction projects sufficient to meet Vermont Water Quality Standards and our obligations under the LC TMDL. This concurrence would be a direct acknowledgment of the reality that our approach will continue to be adapted over time. Further, as indicated in the Vermont Lake Champlain Phosphorus Phase 1 Implementation Plan (dated September 15, 2016) the Agency is committed to providing a report to EPA with an updated spending plan for TMDL implementation every five years with the next report due in 2021.

The Agency of Natural Resources seeks EPA's concurrence that this approach satisfies TMDL requirements.

Sincerely,



Julia S. Moore, P.E.
Secretary

Enclosures: 2
cc via email: EPA Region 1; Ken Moraff, Sean Dixon, Mel Cote, MaryJo Feuerbach, Eric Perkins
VT ANR; Rebecca Ellis, Pete LaFlamme