DEC testimony on H.632 “An act relating to miscellaneous environmental amendments”

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House Committee on Environment
January 22, 2026

VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Outline

I. **Discussion of Draft Language**
   1. Stormwater Impact Fees
      a) Purpose
      b) The Math
      c) Current Status
      d) Effect of Impact Fees in Practice
      e) Considerations with Draft Language
   2. Water Quality Restoration Formula Grants
      a) Notice types and accounting methodology

II. **Program Updates**
   1. Water Quality Restoration Formula Grants and Clean Water Service Providers
   2. Regional Stormwater Utility Study Committee Update (Act 37 of 2025)

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Bill Sections & Intent

(8) Include standards with respect to the use of offsets ~~and stormwater impact fees~~.

* * *

(D) Allow the use of ~~stormwater impact fees,~~ offsets~~,~~ and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

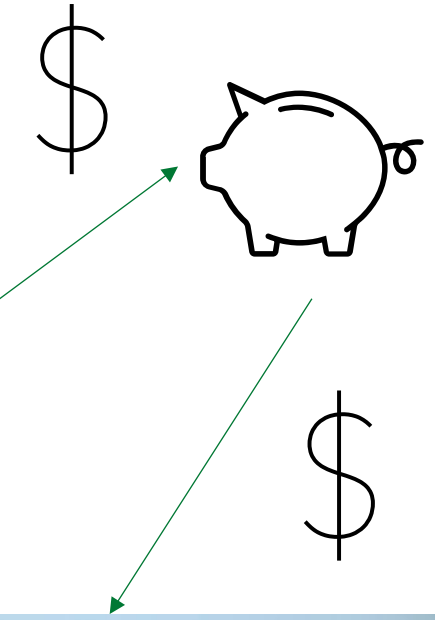
Pages 15, 17

DEC Goals

1. Relieve financial burdens in appropriate cases
2. Maintain forward progress on pollution reduction requirements

Stormwater Impact Fees - Purpose

- Theory behind impact fees
  - Some sites are space constrained
  - Want to maintain forward progress on TMDLs but balance with necessary development
  - Offsets are challenging in complexity and land access
  - Included in Act 64 of 2015 as alternative to offset projects
  - Intended to incentivize those who can, to voluntarily exceed standards
- Payors into fund must still maximize treatment opportunities on site
- Payees/offset projects must be located in same subwatershed
- Applies to sites in LC, LM, & SW-impaired watersheds unable to meet standards due to infeasibility – mostly 3-acre + much smaller # sites that are not 3-acre sites



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Stormwater Impact Fees - The Math

- 10. V.S.A. Chapter 22 SW Permitting Rule Section 22-1002, General Permit 3-9050 Subpart 4.2
- Defined in 10 VSA 1264(b)(11)
- 10 VSA 1264(f) directed Rulemaking to include use of stormwater impact fees
- Paying in:
  - Exceptions/thresholds/triggers
  - Three-Acre Site
  - Sub-Three-Acre Site (Stormwater impaired watersheds)
  - New Development, Redevelopment, Expansion (very limited applicability)
- Paying out:
  - Permit applicants treating above and beyond (minimum 10% improvement in compliance with a standard over existing conditions) are eligible for reimbursement - they're asked to indicate eligibility when applying via the NOI
  - Pay out potential value

Stormwater Impact Fees - Current status and Projections

- Proportion of three-acre sites that have or will need to pay impact fees: Estimate is 8-9% if consistent with current proportions
  - ~255 3-acre sites fully permitted. Of that, 23 3-acre sites currently subject to impact fees
- Sites eligible to receive impact fees (possibly 10%-15% or less)
- Potential foregone income if impact fees repealed: for 3-acre sites based on current projections using median fee of $45,875, >$3,000,000

Stormwater Impact Fees - Effect in Practice

- Paying in:
  - Felt punitive
  - Funding assistance public perception
  - Dissuades progress on some sites
- Paying out:
  - Disparity between potential payment size and actual cost to exceed treatment standards
  - Timing mismatch

Stormwater Impact Fees - Considerations with Draft Language

Benefits

- Projects are more affordable, state and private funding for regulatory stormwater can go further
- Addresses key hesitancies for certain sites

Considerations

- Where is it appropriate to relieve impact fees considering equity, need, and impact to progress on Total Maximum Daily Loads
  - Site activity (e.g. new development vs. retrofits)
  - Site usage (commercial, residential, MHCs)
  - Site location/TMDL (inside/outside stormwater impaired watersheds)
- Operations
  - Avoid forcing offsets as only alternative
  - Reimbursements for payors to date, including potentially the state
  - Ramifications for any sites that may have exceeded treatment standards assuming receipt of impact fees

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Bill Sections & Intent

(c) When implementing the requirements of this section, the Secretary shall ~~follow the type 3 notice process established in section 7714 of this title~~ provide notice to the public and a comment period of not less than 30 days.

(f)(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~~ provide notice to the public and a comment period of not less than 30 days.

(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~~ provide notice to the public and a comment period of not less than 30 days.

Pages 10, 12

DEC Goals

1. Alignment of timeframes to 30 days and public engagement strategies.
2. Updates poorly suited for Environmental Notice Bulletin platform.
3. Intention to maintain robust public engagement. Stakeholder meetings, listserv and website and opportunities for public comment.

(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 publish a timeline, not to exceed one year, to establish a pollution reduction value or design life for that clean water project within 60 days following a

on a pollution reduction value or design life exists. Any ~~estimate~~ timeline or pollution reduction value or design life developed under this subsection by the

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DEC Goals

1. Align with more realistic timelines to produce pollution reduction value or design life.
2. Maintain progress on vetted and prioritized workplan to fill gaps in quantification of pollution reductions based on rate of project implementation in Vermont and indication from research on pollution reduction performance.

Sector	Project or Practice Type	Status of Phosphorus Accounting Methodology	Status of Phosphorus Accounting Implementation[96]	Implementation Notes[97]
Natural Resources	Forested riparian buffer	Implemented	☑	
	Bioengineered lakeshore stabilization	Implemented	☑	
	Forest road & trail erosion remediation	Implemented	☑	
	Use Value Appraisal program enrollment	Implemented	☑	
	Floodplain and stream restoration	Established	☒	Stream and river corridor regulations not yet accounted for in estimated phosphorus reductions Non-regulatory implementation not yet accounted for in estimated phosphorus reductions: 55 acres of floodplain restored 187 stream miles reconnected/restored
	River corridor easements	Established	☒	1,038 acres of riparian corridor easement
	Wetland restoration/easement	Under development	☒	1,354 acres of wetland conserved/restored through easements
	Land conservation easements	Under development	☒	1,042 acres of land conserved with special water quality protections
Wastewater	Private (on-site) wastewater systems constructed/refurbished	Not yet established	☒	120 private wastewater systems constructed or refurbished
	Combined sewer overflow (CSO) abatement	Not yet established	☒	4 combined sewer overflow abatements

Status of Phosphorus Accounting Methodology

Implemented = accounting methodology is published and applied to available data in reporting
Established = accounting methodology is published, not yet applied to available data in reporting
Under development = accounting methodology is being developed but is not yet available to implement
Not established = accounting methodology is not available

Status of Phosphorus Accounting Implementation

☑ = estimated phosphorus reduction data is quantified in reporting.

☒ = estimated phosphorus reduction not quantified in reporting.

The 2025 Clean Water Initiative Performance Report is now available: https://dec.vermont.gov/water-investment/clean-water-initiative/reports

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Clean Water Service Providers ('CWSPs')

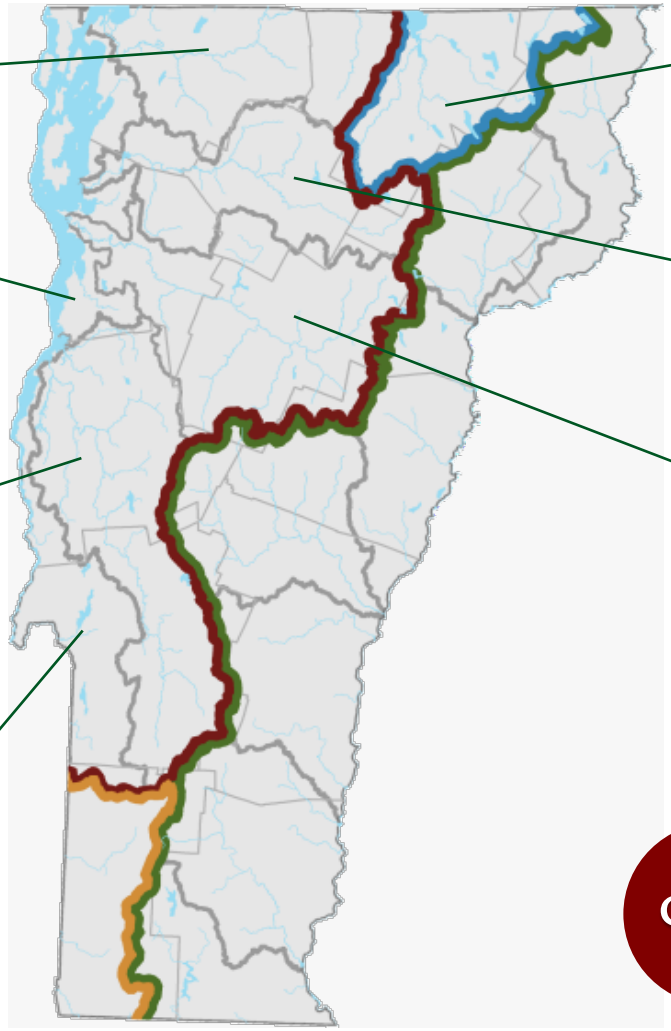
- CWSPs are semi-permanent entities that will typically serve for a 5-year term; assigned to a designated watershed basin – focusing solely on 'non regulatory' projects
- Established via Act 76 of 2019; received their first Formula Grant in FY2023
- Modeled in part after the designated agency model used by other Agencies/Departments
- CWSPs are given a phosphorus reduction target, which is a function of the size of their grant
- CWSPs must make 'adequate annual progress' towards achievement of their target; meeting this threshold is a requirement for a CWSP to be reappointed to another term

Missisquoi Bay
Northwest Regional Planning Commission (RPC)

Northern Lake Champlain
Chittenden County RPC

Otter Creek
Addison County RPC

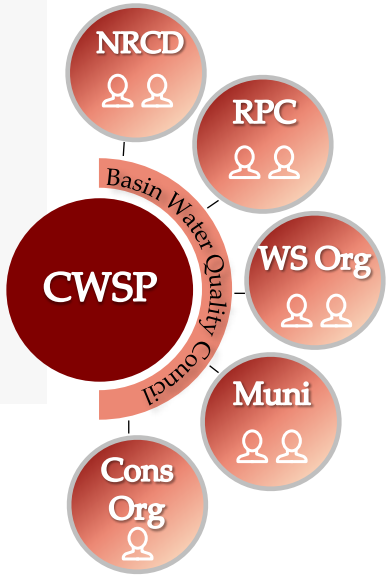
South Lake Champlain
Poultney Mettowee Natural Resource Conservation District & Rutland County RPC



Lake Memphremagog
Vermont Housing and Conservation Board

Lamoille River
Northwest RPC

Winooski River
Central Vermont RPC



Clean Water Service Providers (CWSP)

- Receive/administer Formula Grants; report progress
- With Basin Water Quality Councils, identify, develop, construct, verify, inspect, operate, maintain clean water projects

Basin Water Quality Councils (BWQC)

- Provide local water quality knowledge
- Advise CWSPs on funding decisions; prioritize projects
- Participate in Tactical Basin Planning process

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Non-Regulatory Projects Need Time and Resources

1) Achieving a target is an entrepreneurial endeavor, with risk

2) It takes two years on average to develop a project; need to weed out the ‘good’ from the ‘bad’

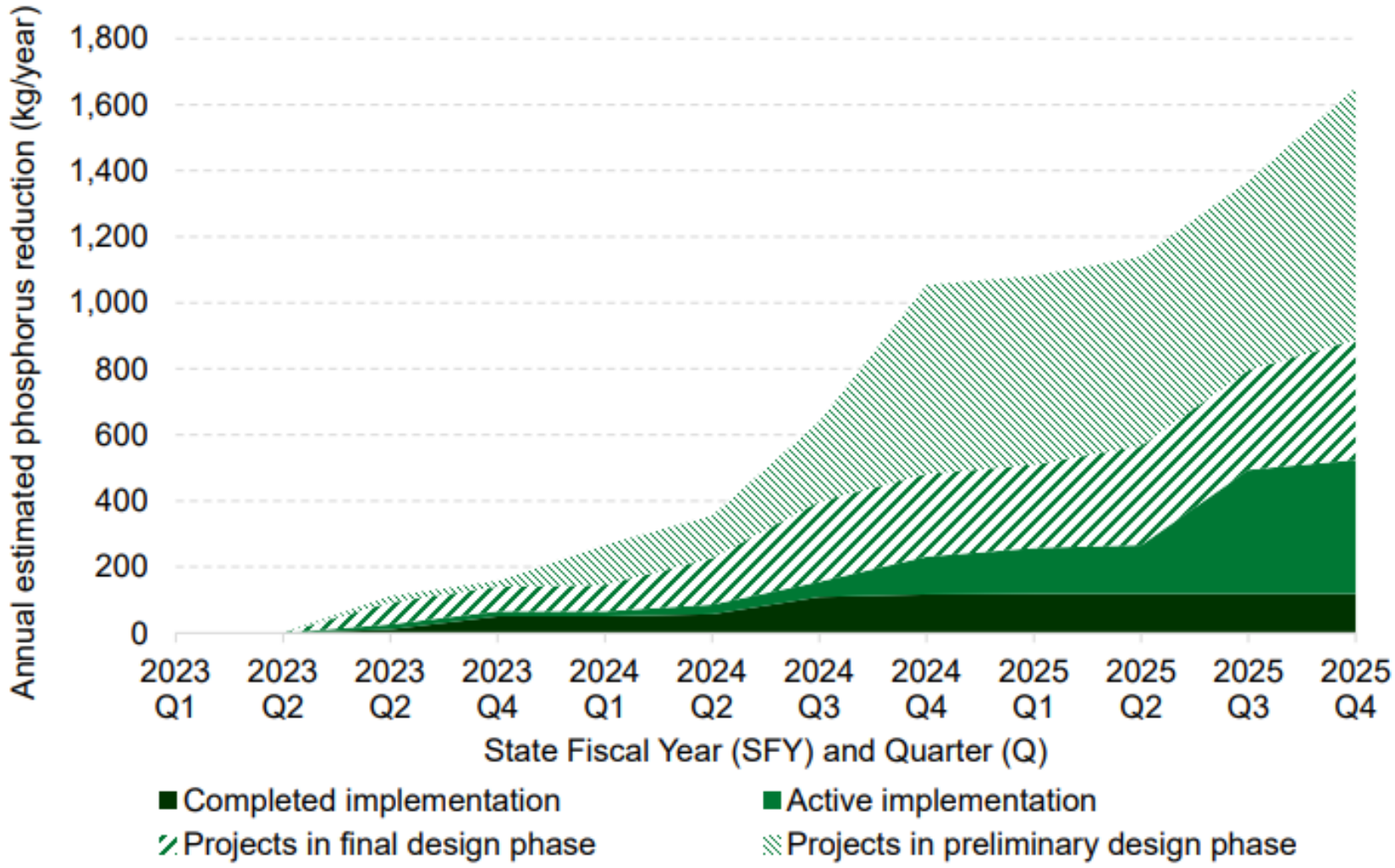
3) The CWSP ‘target’, funding availability, landowner willingness, and staff capacity drives the process; cost-efficiency is the top consideration

4) Non-regulatory projects depend on relationships and credibility – with landowners and stakeholders
   Partners and professionals working on clean water projects are doing amazing, important work

5) CWSPs need to adapt to changing dynamics and new information. For example:
   Archaeology results
   Legal hurdles
   On-the-ground site challenges (e.g. landowner requirements, flooding, etc.)

CWSPs Are Making Progress

- Through SFY 2025 CWSPs have awarded 159 separate clean water projects.
- The projects funded at the implementation phase through the end of SFY 2025 are expected to reduce 524 kg per year.
- Projects at the design phase are expected to reduce phosphorus loading by 1126 kg per year once fully implemented.



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A Maturing Program with Efficient Results

- Issued three years of Formula Grant funds, with year four (FY2026) funding appropriated and amendments routed for signature this month (January, 2026)
- Robust demand for Formula Grant funding –
  - $25.7mm in available project funding across the 7 CWSP basins ($19.5mm if just looking at past 3 years)
  - $7.2mm approved for projects in various stages of implementation
  - $13.1mm in identified need for future project phases/projects under development
- CWSP spending is highly efficient: average cost of reductions of implementation stage projects is $8,000.00/kg/year
- Seeing a number of exciting projects in the early stages of consideration/funding, including some very large floodplain restoration projects in the Winooski basin, and some exciting 'needle in a haystack' stormwater projects in Chittenden County, among other notable successes
- Operations and Maintenance – Clean water project adoption available as of the new 2025 fiscal year
- Developed a "Clean Water Action Plan", prioritizing limited DEC capacity on needed updates that support the CWSP system
- The system is maturing and stabilizing, with many challenges addressed

Thank you!

Learn more: https://dec.vermont.gov/water-investment/statues-rules-policies/act-76

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- Ethan Swift, Watershed Planning Program Manager. Email: ethan.swift@vermont.gov

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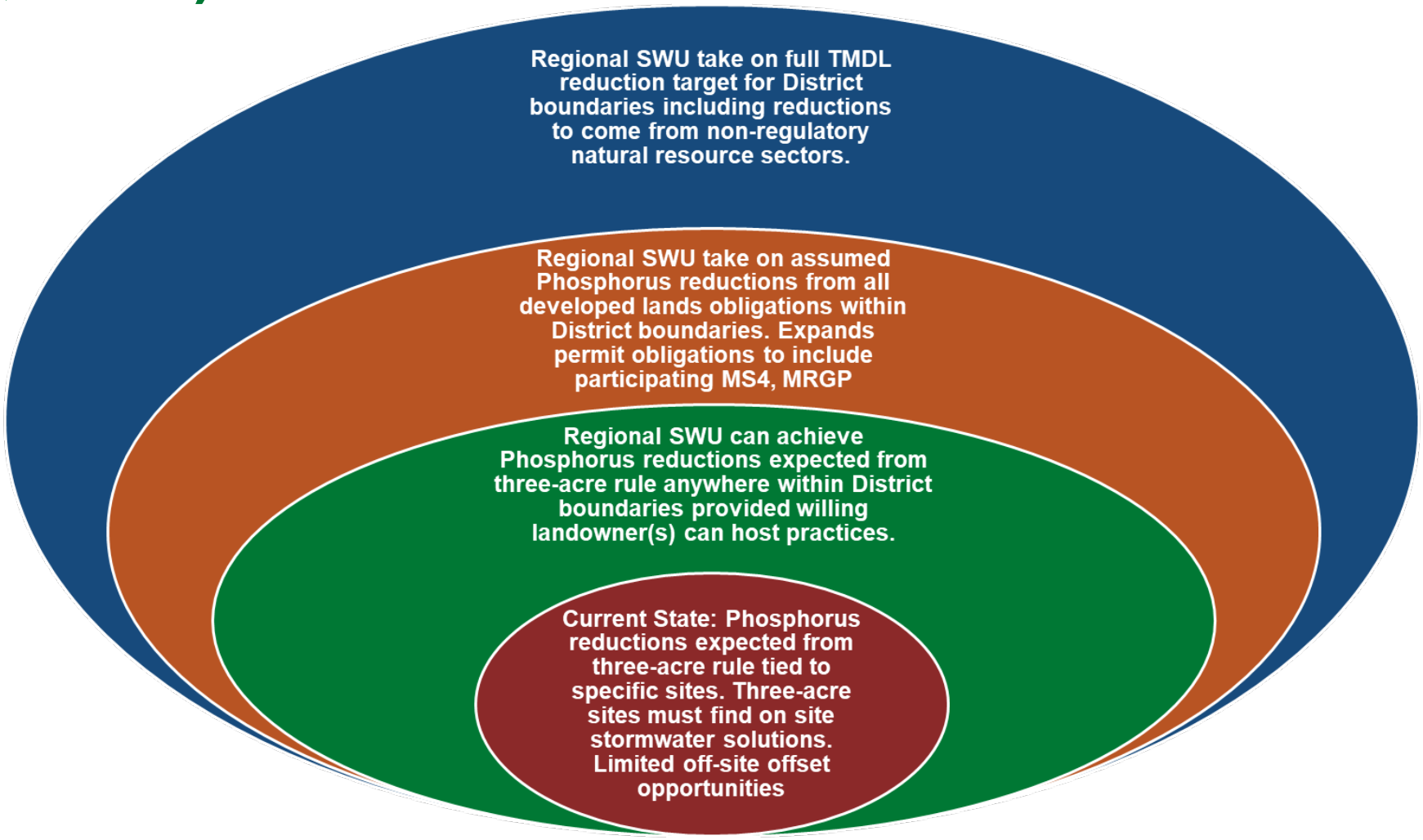
Program Updates – Regional Stormwater Utility Study Committee (Act 37, 2025)



- Committee Site Page: https://dec.vermont.gov/welcome-commissioners-office/stormwater-utility-study-committee
- Recordings of Committee Meetings: https://www.youtube.com/@cleanwaterinitiativevt

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Thank you!

Vermont Clean Water Initiative 2025 Performance Report now available: https://dec.vermont.gov/water-investment/clean-water-initiative/reports

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