

Topic: Department of Environmental Conservation (DEC) Perspective on H.481 “An act relating to stormwater management”

To: *Senate Committee on Natural Resources and Energy*

Date: *March 28, 2025*

Witnesses: Kevin Burke (he/him), DEC Stormwater Program Manager, and Emily Bird (she/her), DEC Clean Water Initiative Program Manager

DEC’s general comments on H.481:

- DEC supports H.481 as currently proposed.
- Three-acre stormwater retrofit requirements remain a key component of the Lake Champlain and Memphremagog pollution control plans, required by the U.S. Environmental Protection Agency (EPA).
- H.481 contains valuable policy adjustments that can alleviate concerns over the cost of the program by adding time and by creating financial assistance and other levers that will assist owners.
- DEC has engaged with Green Mountain Water Environment Association (GMWEA), Lake Champlain Committee, Vermont Association of Planning and Development Authorities (VAPDA), and Vermont League of Cities and Towns (VLCT) on H.481. Each stakeholder group brings its own perspectives on this Bill which we welcome and appreciate to make this an effective Bill. DEC also receives regular feedback from three-acre permittees and fund recipients, such as manufactured housing communities and state agricultural fairgrounds.

The following table summarizes H.481 by section with DEC commentary.

Bill Section & Page #	Intent	DEC Commentary
<p>Sec. 1. amending 10 V.S.A. § 1264 (d) Exemptions Page 2</p>	<p>Advance municipal authority to assess impact fees when municipality assumes full legal responsibility for a stormwater system</p>	<p>DEC supports.</p> <ul style="list-style-type: none"> • Agree this would streamline the ability of towns to assist their landowners. • Municipally sponsored projects can access greater benefits through the Clean Water State Revolving Fund (SRF) than private sites. • ANR is neutral on creation of new utilities/impact fee areas as a revenue raising mechanism for municipalities. • Local impact fees for stormwater system users do not spread the costs of the three-acre requirement geographically (town-wide, regionally, or statewide) but could help spread out costs over time.
<p>Sec. 1. amending 10 V.S.A. § 1264 (g) General permits. Page 3</p>	<p>Extends permit coverage deadline for Lake Champlain, Lake Memphremagog, and stormwater-impaired watersheds from 2023 to 2028.</p> <p>Extends permit coverage for all other watersheds of the State, from 2033 to 2038 or not later than five years after a binding stormwater-specific pollution reduction target, whichever comes first.</p>	<p>DEC supports.</p> <ul style="list-style-type: none"> • It would remain feasible to meet the EPA-approved Lake Champlain and Lake Memphremagog phosphorus TMDLs' targets by the 20-year implementation deadlines of 2036 and 2037 respectively under this extended permit coverage deadline. • Extension would provide more breathing room for owners to develop engineering, work through logistical challenges, and comply with regulation. • Extension would allow the State to further develop funding/financing options.

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		<ul style="list-style-type: none"> It would allow the State to implement pollution reduction targets in other watersheds in the future but maintains a staggered timeline necessary for capacity to administer the program and implement requirements.
<p>Sec. 2-5. Repeals Sunset of Property Transfer Tax Clean Water Surcharge Pages 4-6</p>	<p>Several statutory language changes to repeal the sunset of the Property Transfer Tax Clean Water Surcharge, a revenue stream to the Clean Water Fund.</p>	<p>The Administration, including DEC, and the Clean Water Board support.</p> <ul style="list-style-type: none"> Meets statutory charge of “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” (10 V.S.A. § 1387).
<p>Sec. 6. amending 10 V.S.A. §§ 927 and 928. Pages 6-8</p>	<p>Updates the Developed Lands Implementation Grant Program and Municipal Stormwater Implementation Grant Program in statute to:</p> <ul style="list-style-type: none"> Change from grant program to general financial assistance, allowing a mix of grants, contracts, and loans. Removing conditionality of stormwater funding to Clean Water Service Provider accomplishments. Makes financial assistance available to sub “three-acre” sites 	<p>DEC supports.</p> <ul style="list-style-type: none"> Provides clarity on the mix of financial assistance mechanisms available. Removing conditionality of funds to Clean Water Service Provider accomplishments ensures that progress in one sector does not unnecessarily slow down progress in another sector. Fills a gap of providing financial assistance to sub “three-acre” sites that still need to retrofit to modern standards. Appreciate clarification that when a municipality assumes full legal responsibility for a stormwater system, that project is eligible for Municipal Stormwater

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	<p>that are required to retrofit to meet modern standards.</p> <ul style="list-style-type: none"> Clarify that funds are available through the Municipal Stormwater Implementation Grant Program where a municipality assumes full legal responsibility for a residential subdivision. 	<p>Implementation Grant Program assistance, including but not limited to residential subdivisions.</p>
<p>Sec. 7. amending 10 V.S.A. § 1389(e). Pages 9-10</p>	<p>Updates the Clean Water Board's statutory priorities to recommend at least \$1 million annually under the Municipal Stormwater Implementation Program for costs of complying with the three-acre general permit.</p>	<p>DEC supports.</p> <ul style="list-style-type: none"> This provides transparency and clarity on a minimum amount of funds to be allocated to support municipal three-acre requirements.
<p>Sec. 8. Appropriation Page 10</p>	<p>Directs the Clean Water Board to recommend an initial appropriation of \$5 million in State Fiscal Year (SFY) 2027 to the Municipal Stormwater Implementation Program for costs of complying with the three-acre general permit, including municipally adopted residential subdivisions.</p>	<p>DEC supports.</p> <ul style="list-style-type: none"> An initial appropriation of \$5 million in SFY 2027 will help support financial assistance/loan programs under development for three-acre work. Additional capital into this program may make it easier to provide lower cost loans with some principal subsidy. Delaying this initial appropriation to SFY 2027 minimizes impacts on other funding programs supported by the Clean Water Budget and gives agencies and the Clean Water Board time to plan to support this allocation.

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<p>Sec. 10. Study Committee on Creation of Regional Stormwater Utility Districts</p> <p>Pages 12-16</p>	<p>Creates study committee to review the feasibility and benefit of creating regional stormwater utility districts to facilitate implementation and compliance with the water quality laws of the State.</p>	<p>DEC supports.</p> <ul style="list-style-type: none"> • Creation of the Study Committee provides additional time to address important policy questions/approaches for meeting the three-acre regulatory targets at a more regional scale. • A regional approach for meeting the regulations may involve exploring more cost-effective and equitable solutions for meeting pollution reductions offsite. • This Bill makes additional resources and time available to support success of the three-acre program. Including incentivizing municipal adoption of three-acre sites. • Municipal support of three-acre sites may vary geographically. Regional stormwater utilities may provide more geographic equity in access to technical and financial assistance for three-acre sites. • A regional stormwater utility may also be able to raise revenue to spread costs of the three-acre requirements over time and geographically. <p>DEC recommends the addition of a Regional Planning Commission that serves as a Clean Water Service Provider to the Study Committee.</p> <p>DEC supports a recommendation shared by VAPDA to adjust the deadline for the Study Committee to November 2026 to allow time for any necessary bill drafting.</p>