

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; and

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;

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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; or and

5 (iv) agriculture.

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

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

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

12 § 922. WATER QUALITY IMPLEMENTATION PLANNING AND

13 TARGETS

14 (a) After listing a water as impaired on the list of waters required by
15 33 U.S.C. § 1313(d), the Secretary shall include a strategy for returning the
16 water to compliance with the Vermont Water Quality Standards the following
17 in any plan to implement the requirements of any total maximum daily load
18 adopted for an impaired water a strategy for returning the water to compliance
19 with the Vermont Water Quality Standards. With respect to a water that is
20 impaired due to sources outside the State or where insufficient data exists to
21 quantify reductions required by this subchapter the Secretary shall not be

1 required to implement the requirements of this subchapter, however, the

2 Secretary shall provide an alternate strategy for attaining water quality

3 standards. For waters determined to be subject to this subchapter, the

4 Secretary shall include the following in an implementation plan:

5 (1) An evaluation of whether implementation of existing regulatory

6 programs will achieve water quality standards in the impaired water. If the

7 Secretary determines that existing regulatory programs will not achieve water

8 quality standards, the Secretary shall determine the amount of additional

9 pollutant reduction necessary to achieve water quality standards in that water.

10 When making this determination, the Secretary may express the pollutant

11 reduction in a numeric reduction or through defining a clean water project that

12 must be implemented to achieve water quality standards.

13 (2) An allocation of the pollutant reduction identified under subdivision

14 (a)(1) of this section to each basin and the clean water service provider

15 assigned to that basin pursuant to subsection 924(a) of this title. When making

16 this allocation, the Secretary shall consider the sectors contributing to the water

17 quality impairment in the impaired water's boundaries and the contribution of

18 the pollutant from regulated and nonregulated sources within the basin. Those

19 allocations shall be expressed in annual pollution reduction goals and five-year

20 pollution reduction targets.

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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.

5 (b)(1) The Secretary shall conduct the analysis required by subsection (a)

6 of this section for previously listed waters as follows:

7 (A) For phosphorous in the Lake Champlain watershed, not later than

8 November 1, 2021.

9 (B) For phosphorous in the Lake Memphremagog watershed, not

10 later than November 1, 2022.

11 ~~(C) For all other waters impaired by phosphorous, nutrients, or~~

12 ~~sediment, not later than November 1, 2024.~~

13 (2) By not later than November 1, 2023, the Secretary shall adopt a

14 schedule for implementing the requirements of this chapter in all other

15 previously listed impaired waters not set forth in subdivision (1) of this

16 subsection.

17 (c) When implementing the requirements of this section, the Secretary shall

18 follow the type 3 notice process established in section 7714 of this title.

19 § 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN

20 WATER PROJECTS

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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 When establishing a pollutant reduction value the Secretary shall consider:
5 pollution reduction values established in the TMDL; pollution reduction values
6 established by other jurisdictions; pollution reduction values recommended by
7 organizations that develop pollutant reduction values for a clean water project;
8 applicable monitored data with respect to a clean water project, if available;
9 modeled data, if available; or a comparison to other similar projects or
10 programs if no other data on a pollution reduction value or design life exists.

11 Pollution reduction values established by the Secretary shall be the exclusive
12 method for determining the pollutant reduction value of a clean water project.

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

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1 be the exclusive method for determining the design life of a best management
2 practice or other control.

3 (c)(1) If a person is proposing a clean water project for which no pollution
4 reduction value or design life exists for a listed water, the Secretary shall
5 establish a pollution reduction value or design life for that clean water project
6 within 60 14 days of a request from the person proposing the clean water
7 project. When establishing a pollutant reduction value or design life the
8 Secretary shall consider: pollution reduction values established in the TMDL;
9 pollution reduction values or a design life established by other jurisdictions;
10 pollution reduction values or a design life recommended by organizations that
11 develop pollutant reduction values for a clean water project; applicable
12 monitored data with respect to a clean water project or design life, if available;
13 modeled data, if available; or a comparison to other similar projects or
14 programs if no other data on a pollution reduction value or design life exists.
15 Any estimate developed under this subsection by the Secretary shall be posted
16 on the Agency of Natural Resources' website.

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

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

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

6 (2) By not later than November 1, 2023 2020, the Secretary shall adopt a
7 schedule for implementing the requirements of subsections (a) and (b) of this
8 section for clean water projects and design lives related to all other
9 impairments not listed under subdivision (1) of this subsection.

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

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

16 § 924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR
17 CLEAN WATER PROJECTS

18 (a) Clean water service providers; establishment.

19 (1) On or before November March 1, 2020, the Secretary shall adopt
20 rules that assign a clean water service provider to each basin in the Lake
21 Champlain and Lake Memphremagog watersheds for the purposes of achieving

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1 pollutant reduction values established by the Secretary for the basin and for
2 identification, design, construction, operation, and maintenance of clean water
3 projects within the basin. **For all other impaired waters, the Secretary shall**
4 **assign clean water service provider no later than six months in advance of the**
5 **implementation of the program required by this subchapter.** The rulemaking
6 shall be done in consultation with regional planning commissions, natural
7 resource conservation districts, watershed organizations, and municipalities
8 located within each basin.

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

14 (3) **The Secretary shall adopt guidance on a clean water service**
15 **provider's obligation with respect to implementation of this chapter. At a**
16 **minimum the guidance shall address the following:**

17 (A) **how the clean water service provider integrates prioritizes and**
18 **selects projects consistent with the applicable basin plan integrates basin**
19 **planning into its project prioritization and selection process.**

20 (B) **minimum requirements with respect to selection and agreements**
21 **with subgrantees.**

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1 (C) requirements associated with the distribution of administrative costs
2 to the clean water service provider and subgrantees.

3 (D) Secretary's assistance to clean water service providers with respect
4 to their maintenance obligations pursuant to subsection (c) of this section, and

5 (E) the Secretary's strategy with respect to progressive accountability
6 pursuant to subsection (f) of this section.

7 (4) In carrying out its duties, a clean water service provider shall adopt
8 guidance for subgrants consistent with the guidance from the Secretary
9 developed pursuant to subdivision (a)(3) of this section that establishes a
10 policy for how the clean water service provider will issue subgrants to other
11 organizations in the basin, giving due consideration to the expertise of those
12 organizations and other requirements for the administration of the grant
13 program. The subgrant guidance shall include how the clean water service
14 provider will allocate administrative costs to subgrantees for project
15 implementation and for the administrative costs of the basin water quality
16 advisory council. The subgrant guidance shall be subject to the approval of the
17 Secretary and basin water quality advisory council.

18 (5) When selecting clean water projects for implementation or funding,
19 a clean water service provider shall prioritize projects identified in the basin
20 plan for the area where the project is located and shall consider the pollutant

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1 targets provided by the Secretary and the recommendations of the basin water
2 quality advisory council.

3 (b) Project identification, prioritization, selection. When identifying,
4 prioritizing, and selecting an activity to meet a pollution reduction value, the
5 clean water service provider ~~may~~ shall consider the pollution reduction value
6 associated with the clean water project, conformance with the tactical basin
7 plan, and other water quality benefits beyond pollution reduction associated
8 with that clean water project. All selected projects shall be entered into the
9 watershed projects database., in no particular order of priority, funding clean
10 water projects in the following sectors:

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

14 (2) natural resource protection and restoration, including river corridor
15 and floodplain restoration and protection, wetland protection and restoration,
16 and riparian and lakeshore corridor protection and restoration;

17 (3) forestry; and

18 (4) agriculture.

19 (c) Maintenance responsibility. A clean water service provider shall be
20 responsible for maintaining a clean water project or ensuring the maintenance
21 for at least its the entirety of the design life of that clean water project. The

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1 Secretary shall provide funding for maintenance consistent with subdivision
2 1391(E)(1)(A) of this title.

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

15 (e) Reporting. A clean water service provider shall report annually to the
16 Secretary. The report from clean water service providers shall be integrated
17 into the annual clean water investment report, including outcomes from the
18 work performed by clean water service providers. The report shall contain the
19 following:

20 (1) a summary of all clean water projects completed that year in the
21 basin;

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1 (2) a summary of any inspections of previously implemented clean
2 water projects and whether those clean water projects continue to operate in
3 accordance with their design;

4 (3) all ~~indirect and~~ administrative costs incurred by the clean water
5 service provider;

6 (4) a list of all of the subgrants awarded by the clean water service
7 provider in the basin; and

8 (5) all data necessary for the Secretary to determine the pollutant
9 reduction achieved by the clean water service provider during the prior year.

10 (f) Accountability for pollution reduction goals. If a clean water service
11 provider fails to meet its allocated pollution reduction goals or its five-year
12 target or fails to maintain previously implemented clean water projects the
13 Secretary shall take appropriate steps to hold the clean water service provider
14 accountable for the failure to meet pollution reduction goals or its five-year
15 target. The Secretary may take the following steps:

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

18 (2) ~~Assess penalties established as a term of its grant agreement with the~~
19 ~~clean water service provider which shall increase based on the frequency and~~
20 ~~severity of -Initiate an enforcement action pursuant to chapter 201 or 211 of~~

1 this title for the failure of a clean water service provider's failure to meet its
2 obligations; or

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

5 (g) Basin water quality advisory council.

6 (1) A clean water service provider designated under this section shall
7 establish a basin water quality advisory council for each assigned basin. The
8 purpose of a basin water quality advisory council is to establish policy and
9 make significant decisions for make recommendations to the clean water
10 service provider regarding the most significant water quality impairments that
11 exist in the basin and prioritizing the projects that will address those
12 impairments based on the basin plan. A basin water quality council shall also
13 participate in the basin planning process.

14 (2) A basin water quality advisory council shall include, at a minimum,
15 the following:

16 (A) two people representing representatives from each natural
17 resource conservation districts in that basin, selected by the applicable natural
18 resource conservation district;

19 (B) two people representing regional planning commissions in that
20 basin, selected by the applicable regional planning commission;

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1 (C) two people representing representatives from each local
2 watershed protection organizations operating in that basin, selected by the
3 applicable watershed protection organizations;

4 (D) one representative from an applicable local or statewide land
5 conservation organizations selected by the conservation organizations in
6 consultation with the clean water service provider; and

7 (E) two people representing municipalities representatives from each
8 municipality within the basin, selected by the clean water service provider in
9 consultation with municipalities in the basin.

10 (3) The designated clean water service provider and the Agency of
11 Natural Resources shall provide technical staff support to the basin water
12 quality advisory council. The clean water service provider may invite support
13 from persons with specialized expertise to address matters before a basin water
14 quality advisory council, including support from the University of Vermont
15 Extension, staff of the Agency of Natural Resources, and staff of the Agency
16 of Agriculture, Food, and Markets, Natural Resource Conservation Service,
17 United States Department of Fish and Wildlife, and United States Forest
18 Service.

19 § 925. WATER QUALITY GRANT PROGRAMS

20 (a) The Secretary shall administer a Water Quality Restoration Formula
21 Grant Program to award grants to clean water service providers to meet the

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1 pollution reduction requirements under this subchapter. The grant amount
2 shall be based on the annual pollutant reduction goal established for the clean
3 water service provider multiplied by the standard cost for pollutant reduction
4 including the costs of administration and reporting. No more than 15 percent
5 of the total grant amount awarded to a clean water service provider shall be
6 used for administrative costs.

7 (b) The Secretary shall administer a Water Quality Enhancement Grant
8 Program. This program shall be a competitive grant program to fund projects
9 that protect high quality waters, create resilient watersheds and communities,
10 and support promote the public's use and enjoyment of the State's waters.
11 When making awards under this program, the Secretary shall consider the
12 geographic distribution of these funds cost-effectiveness of an award and the
13 funding needs of each basin. No more than 15 percent of the total grant
14 amount awarded to a clean water service provider shall be used for
15 administrative costs.

16 (c) The Secretary shall administer a Stormwater Implementation Grant
17 Program to provide grants or financing to persons who are required to obtain a
18 permit to implement regulatory requirements that are necessary to achieve
19 water quality standards. The grant or financing program shall only be
20 available in basins where a clean water service provider has met its annual
21 goals or is making sufficient progress, as determined by the Secretary, towards

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1 those goals. This grant program may fund projects related to the permitting of
2 impervious surface of three acres or more under subdivision 1264(g)(3) of this
3 title. No more than 15 percent of the total grant amount awarded ~~to a clean~~
4 ~~water service provider~~ shall be used for administrative costs.

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

13 § 926. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

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

17 § 927. RULEMAKING

18 The Secretary may adopt rules to implement the requirements of this
19 subchapter.

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

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

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1 (A) identify waters that should be reclassified outstanding resource
2 waters or that should have one or more uses reclassified under section 1252 of
3 this title;

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

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

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

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

14 (F) ensure that municipal officials, citizens, **natural resources**
15 **conservation districts, regional planning commissions,** watershed groups, and
16 other interested groups and individuals are involved in the basin planning
17 process;

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

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

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

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

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

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

- 1 (A) conduct any of the activities required under subdivision (2) of this
2 subsection (d);
- 3 (B) provide technical assistance and data collection activities to inform
4 municipal officials and the State in making water quality investment decisions;
- 5 (C) coordinate municipal planning and adoption or implementation of
6 municipal development regulations better to meet State water quality policies
7 and investment priorities; or
- 8 (D) assist the Secretary in implementing a project evaluation process to
9 prioritize water quality improvement projects within the region to ensure cost-
10 effective use of State and federal funds.

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

12 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

13 (a)(1) The State has committed to implementing a long-term Clean Water
14 Initiative to provide mechanisms, staffing, and financing necessary to achieve
15 and maintain compliance with the Vermont Water Quality Standards for all
16 State waters.

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

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

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

3 (C) the Agency of Natural Resources' Combined Sewer
4 Overflow Rule; and

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

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

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

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

18 (2) fund staff positions at the Agency of Natural Resources, Agency of
19 Agriculture, Food and Markets, or Agency of Transportation when the
20 positions are necessary to achieve or maintain compliance with water quality

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1 requirements and existing revenue sources are inadequate to fund the necessary
2 positions; and

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

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

8 § 1389. CLEAN WATER BOARD

9 (a) Creation.

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

11 (A) be responsible and accountable for planning, coordinating, and
12 financing of the remediation, improvement, and protection of the quality of
13 State waters;

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

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

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

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

19 (b) Organization of the Board. The Clean Water Board shall be composed
20 of:

21 (1) the Secretary of Administration or designee;

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1 ~~(C)~~(B) establish measures for determining progress and effectiveness
2 of expenditures for clean water restoration efforts;

3 (C) if the Board determines that there are insufficient funds in the
4 Clean Water Fund to issue all grants required by section 925(a) of this title,
5 conduct all of the following:

6 (i) Direct the Secretary of Natural Resources to prioritize the work
7 needed in every basin, adjust pollution allocations assigned to clean water
8 service providers, and issue grants based on available funding.

9 (ii) Make recommendations to the Governor and General
10 Assembly on additional revenue to address unmet needs.

11 (iii) Notify the Secretary of Natural Resources that there are
12 insufficient funds in the Fund. The Secretary of Natural Resources shall
13 consider additional regulatory controls to address water quality improvements
14 that could not be funded.

15 (D) issue the annual Clean Water Investment Report required under
16 section 1389a of this title; and

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

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

5 (e) Priorities.

6 (4) In making recommendations under subsection (d) of this section
7 regarding the appropriate allocation of funds from the Clean Water Fund, the
8 Board shall **prioritize as follows:**

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

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

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

17 (A) grants to clean water service providers to fund the reasonable
18 costs associated with the **inspection monitoring**, operation, and maintenance of
19 clean water projects in a basin;

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

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1 (C) the Agency of Agriculture, Food, and Markets: ~~Conservation~~
2 ~~Reserve Enhancement Program, Farm Agronomic Practice Program, and Clean~~
3 ~~Water Initiative Partner Grant Program; and~~

4 (D) the Water Quality Enhancement Grants as provided in subsection
5 925(b) of this title, provided funding shall be at least \$1,500,000.00; ~~and~~

6 (E) ~~funding to partners for basin planning, basin water quality council~~
7 ~~participation, education, and outreach as provided in subdivision 1253(d)(3) of~~
8 ~~this title, provided funding shall be at least \$500,000.00.~~

9 (2) ~~to the extent that funding is available after funding grants and~~ ~~as the~~
10 ~~next priority after reviewing funding requests for~~ programs identified under
11 subdivision (1) of this subsection:

12 ~~(A) investment in watershed planning;~~

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

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

17 ~~(E)~~(B) funding for education and outreach regarding the
18 implementation of water quality requirements, including funding for education,
19 outreach, demonstration, and access to tools for the implementation of the
20 Acceptable Management Practices for Maintaining Water Quality on Logging

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1 Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and
2 Recreation;

3 ~~(F)~~**(C)** funding for education, outreach, demonstration, and
4 implementation for required agricultural practices and any required best
5 management practices on agricultural land;

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

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

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

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

17 ~~(F)~~**(G)** funding to purchase agricultural land in order to take that land
18 out of practice when the State water quality requirements cannot be remediated
19 through agricultural Best Management Practices;

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1 (3) as the next priority after reviewing funding requests under
2 subdivisions (1) and (2) of this subsection funding for the Stormwater
3 Implementation Grant Program as provided in subsection 925(c) of this title.

4 (H) funding to municipalities for the establishment and operation of
5 stormwater utilities; and

6 (I) investment in watershed basin planning, water quality project
7 identification screening, water quality project evaluation, and conceptual plan
8 development of water quality projects.

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

16 (3) In developing its recommendations under subsection (d) of this
17 section regarding the appropriate allocation of funds from the Clean Water
18 Fund, the Board shall, after satisfaction of the priorities established under
19 subdivision (1) of this subsection (e), attempt to provide investment in all
20 watersheds of the State based on the needs identified in watershed basin plans.

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

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

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

13 * * *

14 (5) 10 V.S.A. chapter 37, relating to wetlands protection, water
15 restoration goals and targets, and water resources management;

16 * * *

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

18 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

19 A regional planning commission created under this chapter shall:

20 * * *

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1 (20) If designated as a clean water service provider under 10 V.S.A.
2 § 924, provide for the identification, prioritization, development, construction,
3 inspection monitoring, operation, and maintenance of clean water projects in
4 the basin assigned to the regional planning commission in accordance with the
5 requirements of 10 V.S.A. chapter 37, subchapter 5.

6 Sec. 7.

7 § 704. POWERS OF COUNCIL

8 The State Natural Resources Conservation Council may employ an
9 administrative officer and such technical experts and such other agents and
10 employees as it may require. The Council may call upon the Attorney General
11 of the State for such legal services as it may require, or may employ its own
12 counsel. It shall have authority to delegate to one or more of its members, or to
13 one or more agents or employees, such powers and duties as it may deem
14 proper. If designated as a clean water service provider under 10 V.S.A. § 924,
15 provide for the identification, prioritization, development, construction,
16 inspection, operation, and maintenance of clean water projects in the basin
17 assigned to the regional planning commission in accordance with the
18 requirements of 10 V.S.A. chapter 37, subchapter 5.

19 Sec. 8. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

20 On or before July 1, 2022, the Secretary of Natural Resources, after
21 consultation with the Clean Water Board, shall submit to the Senate

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1 Committees on Appropriations, on Natural Resources and Energy, and on
2 Finance and the House Committees on Appropriations, on Natural Resources,
3 Fish, and Wildlife, and on Ways and Means recommendations regarding
4 implementation of a market-based mechanism that allows the purchase of
5 water quality credits by permittees under 10 V.S.A. Chapter 47, and other
6 entities.

7 Sec. 9. **TRANSITION**

8 **(a) Until November 1, 2021, the Secretary shall implement the existing**
9 **ecosystem restoration funding delivery program and shall not make substantial**
10 **modifications to the manner in which that program has been implemented.**
11 **The Secretary may give increased priority to meeting legal obligations**
12 **pursuant to a total maximum daily load when implementing that funding**
13 **delivery program.**

14 **(b) Until the plan required by 10 V.S.A. § 923(d)(2) has been fully**
15 **implemented, the Secretary shall provide additional weight to geographic areas**
16 **of the state not receiving a grant pursuant to 10 V.S.A. § 925(a) when making**
17 **funding decisions with respect to grants awarded pursuant to 10 V.S.A. §**
18 **925(b).**

19 Sec. **10.** EFFECTIVE DATE

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