

Title: Progress Report on the Lake Champlain TMDL Phase 1 Implementation Plan

Year: 2021

**Prime Contact: Neil Kamman, Director,
Water Investment Division, DEC**

Date Reported: 1/19/2021

Committee: HNRFW, HA&F, SAg,

**Authorizing Law #: 10 V.S.A.
Chapter 47**

SNR&E

Section #: §1386

Executive Summary

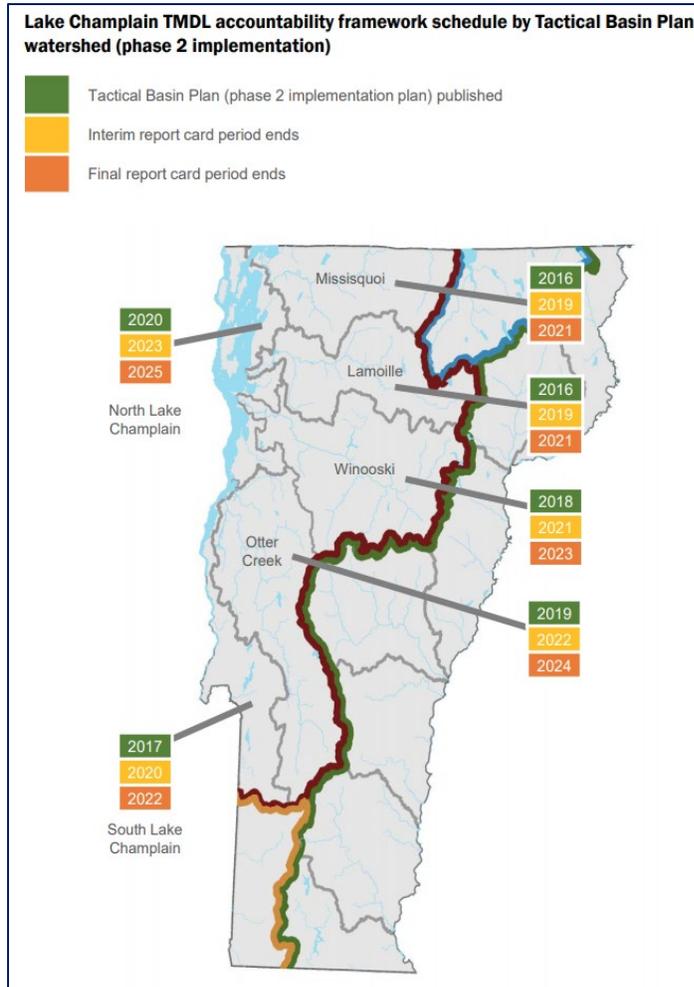
Title 10 V.S.A. §1386 requires that the Secretary of the Agency of Natural Resources, within three months of issuance of the *Phosphorus Total Maximum Daily Loads for Vermont Segments of Lake Champlain* (i.e., Lake Champlain TMDL), update the *Vermont Lake Champlain Phosphorus TMDL Phase 1 Implementation Plan* (i.e., Phase 1 Plan) outlining steps necessary to meet the goals and requirements of the TMDL. That [Phase 1 Plan](#) was issued timely in September of 2016 after a robust period of public comment. The Plan set forth 28 specific milestones and deliverables, many of which were established as requirements under the Vermont Clean Water Act of 2015 (Act 64), or the Lake Champlain TMDL itself. Title 10 V.S.A. §1386 further requires that on or before January 15 in the year following issuance of the updated Phase 1 Plan and every four years thereafter, the Secretary shall report to relevant Committees regarding the execution of the updated Phase 1 Plan.

On September 3, 2020, US Environmental Protection Agency (USEPA) Regional Administrator Dennis Diezel transmitted to Agency of Natural Resources (ANR) Secretary Moore and Agency of Agriculture, Food and Markets (AAFM) Secretary Tebbetts a letter indicating their determination of satisfactory completion of all 28 milestones and deliverables, meaning that the implementation of the Phase I Plan is fully completed.

There are two key items to be reported: Part 1) A summary of the efforts undertaken to implement the Phase 1 Plan; and Part 2) An assessment of the Phase 1 Plan based on available data, including an evaluation of the efficacy of the Phase 1 Plan. This report also recommends elimination of this specific reporting requirement as described in the Discussion section.

LAKE CHAMPLAIN TMDL PHASE I PROGRESS UPDATE

Key Takeaways



Lake Champlain Phase II Reporting Cycle

Part 1:

- As of September 2, 2020, all requirements of the Phase 1 Plan have been completed.
- [Provided here](#) is EPA's letter of acknowledgement of completion all milestones and deliverables, and their thanks for continued collaboration towards the management of Lake Champlain.
- [This document](#) provides the listing of specific outcomes for each of the 28 milestones and deliverables referenced in EPA's letter.

Part 2:

- The *Vermont Clean Water Initiative 2020 Performance Report* documents progress towards achieving the goals of the Lake Champlain TMDL, highlighting accomplishments across all sectors including the effectiveness of Act 64 programs in terms of documented pollution reductions and other performance measures.

LAKE CHAMPLAIN TMDL PHASE I PROGRESS UPDATE

Discussion

USEPA noted in an [April 4, 2018 interim report letter that 25](#) of the 28 milestones and deliverables required by the Phase 1 Plan were fully . The remaining three constituted significant public policy or regulatory efforts, requiring additional time to complete. These were:

- A. Issuance of a revised Municipal Separate Storm Sewer System (MS4) permit. This permit program was re-issued pursuant to Vermont’s delegated National Pollutant Discharge Elimination System (NPDES) authority on July 27, 2018.
- B. Adoption of a long-term funding source for the Clean Water Fund. Act 76 of 2019 accomplished this requirement by allocating six percent of the Vermont Meals and Rooms Tax to the Clean Water Fund, in addition to the existing Property Transfer Tax Clean Water Surcharge and unclaimed bottle deposits (i.e., escheats) committed by prior legislative action. In aggregate, under non-COVID pandemic circumstances, this combination of sources is expected to yield ~\$20 million annually in revenue to the Clean Water Fund, projected to grow over time. This is complemented by annual bonded capital support of \$10 million to \$12 million, as recommended by Vermont Treasurer Pearce in her [Clean Water Report](#) of 2017.
- C. Promulgation of the General Permit 3-9050 for Operational Stormwater Discharges, also known as the “Three-Acre General Permit.” [This permit](#) was issued on September 1, 2020 and went into effect on December 1, 2020.

USEPA has determined Phase 1 Plan milestones are complete and operational. USEPA’s future Lake Champlain TMDL implementation interim (every 2.5 years) and final (every 5 years) report cards will follow the TMDL Accountability Framework schedule for Phase 2 implementation and beyond. USEPA’s interim and final report cards are supported by the *Vermont Clean Water Initiative Annual Performance Report*, including interim and final status updates of Tactical Basin/TMDL implementation plans. USEPA issued its first [Lake Champlain TMDL Phase 2 Implementation Interim Report Card for the Lamoille and Missisquoi Tactical Basin Plans](#) in 2020 and is scheduled to review the Interim Report Card for the South Lake Champlain Tactical Basin Plan in 2021. Therefore, the Department recommends sunseting of the Phase 1 Plan reporting provisions of 10 V.S.A. §1386 during the 2021-2022 legislative session.