

Proposed Clean Water Service Provider Rule

Orientation for the proposed Environmental Protection Rule Chapter 39

Feb 1, 2021 and Feb. 3, 2021

Water Investment Division, VTDEC

Today's Hearing

- Initiate Recording, Introductions, ground rules
 - Closed Captioning Available
- Statutory Authority and Purpose of Proposed Rule
- Design of a decentralized network of Clean Water Service Providers
- Directed funding to support operation of the network
- Stakeholder engagement on the draft Rule to date
- Outline of the Proposed Rule
- How to Comment
- Remaining Rulemaking Process

This hearing, and providing comments

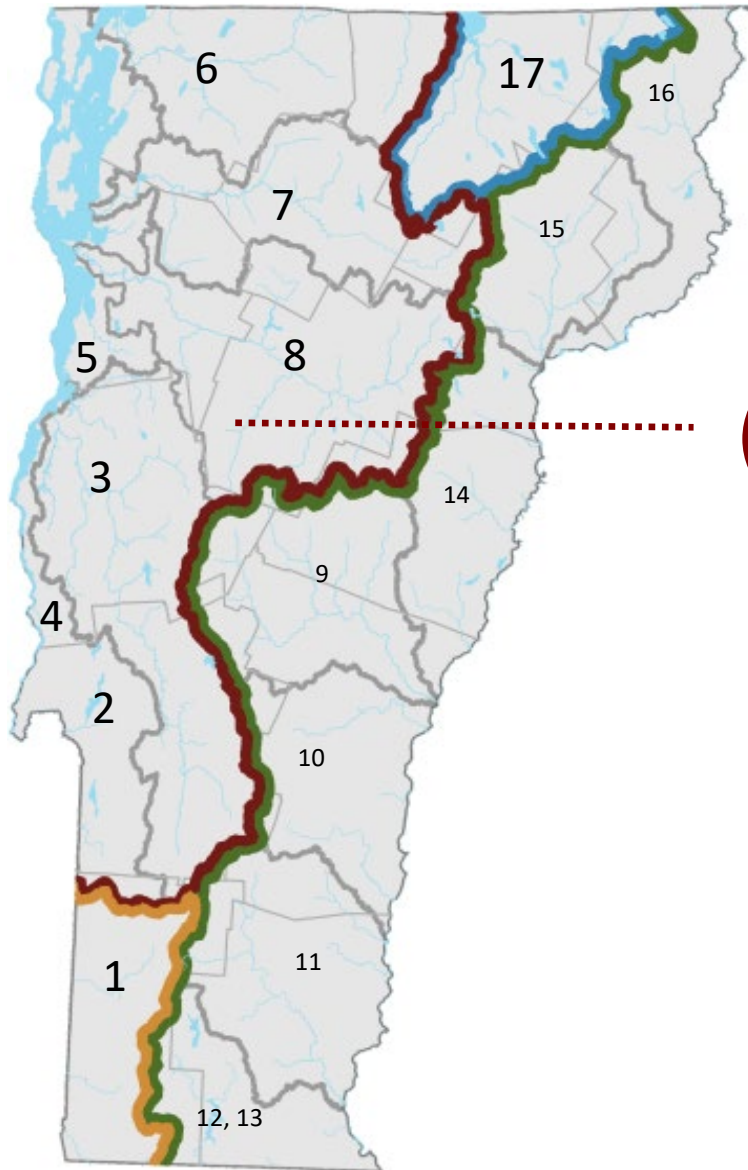
- DEC staff are here to accept and record feedback during this hearing
 - DEC staff *may* respond to clarifying questions, but will not in this venue adjudicate comments.
- Please reserve formal comments on the proposed rule until the end of this presentation
- Using “Raise Hand” function of Microsoft Teams
 - Note – if this does not function, OK to break in at a suitable pause
 - Don’t Forget to Unmute
- DEC staff will call upon questions in the order “hands” are raised.

Clean Water Service Delivery Act of 2019

- Long-term funding source for the CWF
- Prioritizes CWF support to Non-Regulatory Programs
- *Establishment of a network of decentralized Clean Water Service Providers (this proposed Rule)*
- Establishment of four consistent grant programs



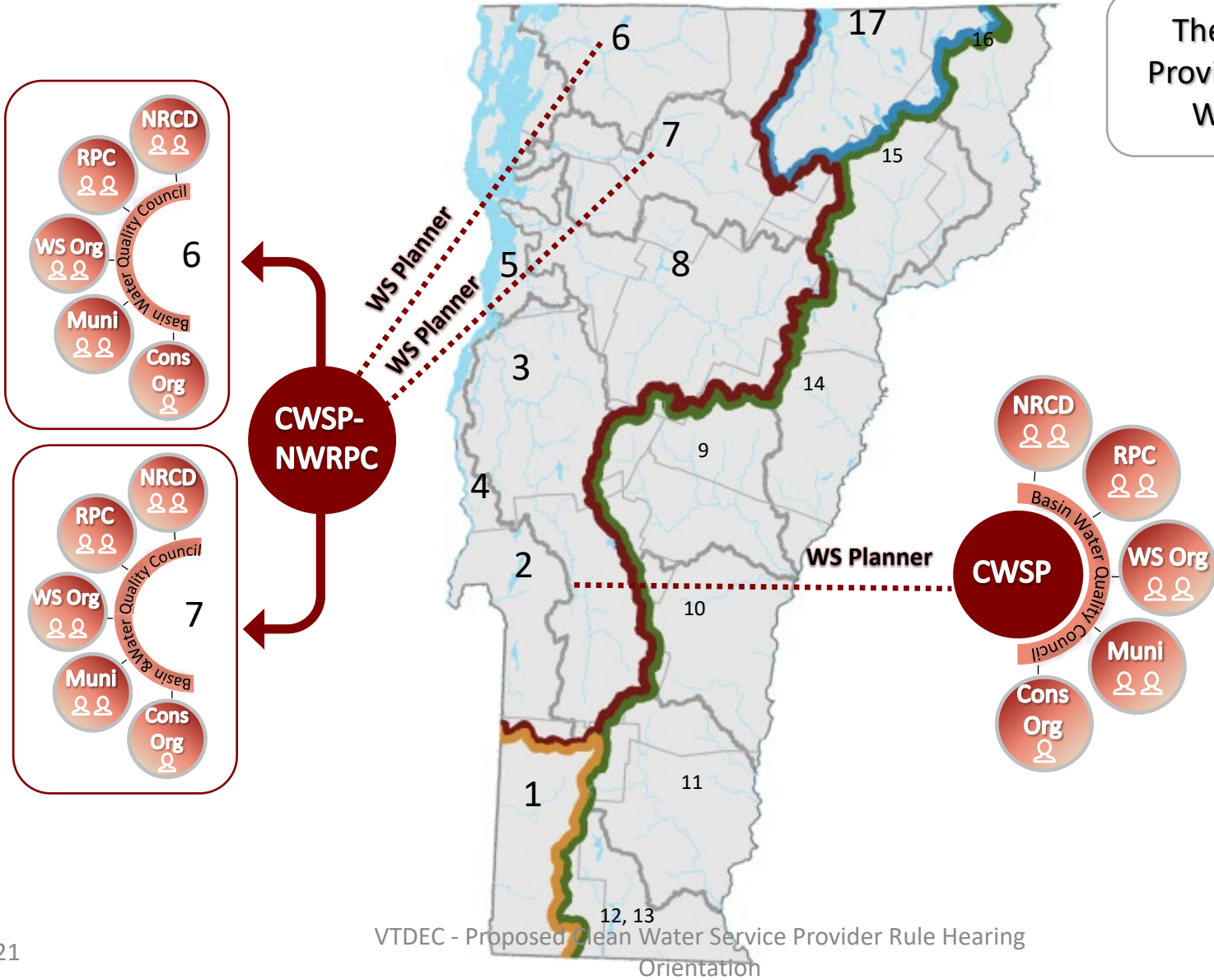
Act 76 establishes Clean Water Service Providers, Basin Water Quality Councils



- Clean Water Service Providers
 - Establish Basin Water Quality Councils
 - In coordination with these Councils, identify, develop, construct, verify, inspect, operate, and maintain clean water projects
 - Ensure consistency with the applicable Tactical Basin Plan, and consider the pollution reduction value and co-benefits provided by the project, and operation, and maintenance of the project
 - Defined terms of service, and criteria for renewal
- Basin Water Quality Councils
 - Councils provide localized water quality knowledge to establish policy and make decisions for the CWSP regarding the most significant water quality impairments that exist in the basin
 - Councils prioritize the projects that will address those impairments based on the basin plan
 - Councils participate in the basin planning process

The Proposed Rule assigns Clean Water Service Providers for the Lake Champlain and Memphremagog Basins, as Follows

For the Missisquoi (06) and Lamoille (07) Basins, the NW RPC is proposed in the Rule to service more than one basin. They will convene one council for each Basin



The proposed Clean Water Service Providers below shall convene 1 Basin Water Quality Council per Basin

Basin (#)	CWSP
Memphremagog (17)	Vermont Housing Conservation Board
North Lake (05)	Chittenden County Regional Planning Commission
Winooski (08)	Central Vermont Regional Planning Commission
Otter Creek (03)	Addison County Regional Planning Commission
South Lake (02 and 04)	Rutland Regional Planning Commission, in collaboration with the Poultney-Mettowee Natural Resources Conservation District

Act 76 Directs Clean Water Board to Prioritize Funding

Tiered Prioritization of Funding Recommendations from the Clean Water Board

Tier 1	<p><u>Eligibility</u></p>  <p>Any eligible entity</p> <hr/> <p>As directed by AAFM</p>	<p><u>Non-competitive (non-regulatory) funding:</u></p> <ul style="list-style-type: none"> • To CWSPs – Reasonable Operations and Maintenance Costs • To CWSPs – Water Quality Restoration Formula Grants • To CWSPs – not more than 15% of the above may be used for administrative costs • To RPCs, NRCDs, WUV - \$500K to support TBP, and Basin WQCs <p><u>Competitive (non-regulatory) funding:</u></p> <ul style="list-style-type: none"> • Water Quality Enhancement and Protection Grants (25% of CWF, not to exceed \$5M) <p><u>Ag Water Quality Programs (to comply with Required Agricultural Practices)</u></p> <ul style="list-style-type: none"> • Funding levels recommended by CWB appropriated to AAFM
Tier 2	Municipalities	Competitive (regulatory) Municipal Stormwater Implementation Grants*
Tier 3	Private Entities	Competitive (regulatory) Developed Lands Implementation Grants*

* “The grant(s) or financing program (to meet regulatory permit requirements) shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals.”

Stakeholder Engagement to Date

- Introduction - Agency and Partner Meetings
 - Aug to Dec. 2019
 - Two dozen such meetings
- Stakeholder Advisory Group
 - Representing 12 relevant stakeholder organizations
 - Meeting 1x to 2x/mo from Nov, 2019 to present
 - Developed and noticed an RFP to identify proposed providers
 - Assisted in developing concepts and considering language for the proposed Rule
 - One Advisory Committee and one public review draft preceded this Proposed Rule
 - Wide outreach from partners involved in the Advisory Group to additional stakeholders.
- Preparation of 16-page Q+A, Fact sheets, Act 76 website

Rule Outline

- 1) Purpose and Authority
- 2) Definitions
- 3) Clean Water Service Providers
- 4) Technical Implementation
- 5) Basin Water Quality Councils
- 6) Conflict of Interest
- 7) Review of Adequate Progress and Maintenance;
Corrective Action Plans
- 8) Renewal and Removal of CWSP Assignment

Appendix A: List of Assigned CWSPs by Basin

To Comment in writing:

- Draft Clean Water Service Provider Rule Resources:
 - [Administrative Procedures Proposed Rule Filing – Clean Water Service Provider Rule](#)
 - [Environmental Protection Rule, Chapter 39 – Proposed Clean Water Service Provider Rule](#)
 - [This presentation](#)
- Submit all comments by February 19, 2021 to Mr. Chris Rottler, Water Investment Division, DEC
 - Chris.Rottler@vermont.gov

1 National Life Drive Davis 3
Montpelier, VT 05620-3522
- Website: <https://dec.vermont.gov/water-investment/statutes-rules-policies/act-76>

Next steps after Public Comment

- DEC will compile public comments and prepare a responsiveness summary
 - All comments received will be published
 - Comment responses may be grouped by theme as appropriate
- DEC will file a final Proposed Rule with any proposed revisions resulting from comment clearly identified
- The final Proposed Rule will be considered for approval by the Legislative Committee on Administrative Rules (LCAR) of the General Assembly.
- LCAR review is focused on the congruence of the Rule with the statutory intent of Act 76.
- DEC will maintain a complete archive of these activities on the website noted in the preceding page.

Commenting

- To Comment at this Hearing
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 - DEC staff will call upon commenters in the order “hands” are raised.
- Written Comments will be accepted until Feb 19th, 2021.



Comment Period