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AGENCY OF NATURAL RESOURCES

November 14, 2016

RE: Additional Change to Vermont Water Quality Standards

Dear Representative French and Members of the Committee,

The Agency would like to propose one additional change to the Vermont Water Quality Standards. The language the Agency proposes to add was inadvertently omitted from the proposed Rule. The language exists in the current EPA-approved 2014 Vermont Water Quality Standards (VWQS) and the omission of this language was a drafting error brought to the Agency's attention after the Rule was filed with LCAR.

In Table 3 of the Rule, which is on page 45 of the annotated Rule and page 30 of the clean copy, the following important footnote should be added:

“Compliance with nutrient criteria shall be achieved either by compliance with the nutrient concentration values specified above or by compliance with all nutrient response conditions. In situations where the applicable nutrient concentrations are achieved but the nutrient response conditions are not met as a result of nutrient enrichment, the Secretary may establish alternate nutrient concentration values on a site-specific basis, as necessary, to achieve compliance with the nutrient response conditions. All waters shall maintain a level of water quality that provides for the attainment and maintenance of the water quality standards of downstream waters.”

The foregoing language appears in Sections 3-02(B)(5), 3-03(B)(5), and 3-04(B)(5) of the 2014 VWQS, which are the nutrient criteria applicable to rivers and streams *and* lakes and reservoirs. As a part of the restructure of the proposed Rule, the nutrient criteria for streams were put in one table and the nutrient criteria for lakes and reservoirs were put in a different table, but there was no intent to change the criteria from what they currently are. The foregoing language already appears in Table 2 of the proposed Rule, which contains the nutrient criteria for *rivers and streams*. The language must be added to the nutrient criteria for lakes and reservoirs in order to maintain how the criteria are applied, as intended by the Agency and previously approved by EPA.

Please let me know if you have any questions about the foregoing change.

Sincerely,

Elizabeth Schilling, Associate General Counsel
Department of Environmental Conservation

