

Vermont Department of Environmental Conservation
Agency of Natural Resources
Responsiveness Summary to Public Comment
regarding: Act 76 Guidance DRAFT Chapter 8

On January 4th, 2023, the Vermont Department of Environmental Conservation (VDEC) of the Agency of Natural Resources (ANR) released a final draft of Act 76 Guidance Chapter 8 for a 30-day public comment period. The public comment period, commenced on January 4th and ended on February 3rd, 2023. Notices were sent out to by VDEC to the Act 76 Advisory Group and via the Clean Water Initiative Program Grants Notification Listserv.

The DEC prepared this responsiveness summary to address specific comments and questions and to indicate how guidance has been modified in response to public comment. Comments may have been paraphrased or quoted in part. The full text of the comments provided is available for review by contacting the Water Investment Division.

Responsibilities

Added additional clarification to responsibilities section, including outlining DEC responsibilities related to Formula Grant funded clean water project data management.

Project Tracking

Updated Figure 1 to remove project feasibility considerations, which will be explained in detail in other chapters of guidance, and focus the figure on illustrating the data management process related to project information.

Suggestion to remove specification that data management guidance applies only to projects prioritized and selected by the BWQC was adapted to a footnote to indicate that project selection includes the prioritization and selection procedures outlined in Chapter 6 of Guidance. This is meant to clarify that data management responsibilities extend to all work that receives "project funds" through the Formula Grant, including project ID and development.

Question: does O&M have its own WPD ID?

Response: footnote added to clarify that O&M data will be tracked in the implementation phase WPD entry for a project. More detail on data requirements and reporting related to O&M will be available in the Operation & Maintenance Chapter of Guidance.

Question: Can project be updated to a status of "terminated" through use of the Project Update Form?

Response: Added clarification that project status cannot be marked as terminated using the forms, if a project needs to be updated to status = "terminated" the project proponent should contact the Watershed Planning Program and/or Clean Water Initiative Program.

Question: aren't phosphorus calculations done prior to project selection to support prioritization?

Response: Estimated phosphorus reduction can be calculated prior to project implementation for use in project prioritization, however final as built project specs are a required deliverable of implementation phase projects to support calculation and recording of final estimated phosphorus reduction.

Suggestions related to Figure 2 - identification and development relationship types have been combined into a single relationship. The figure has been reworked to address some points of confusion. The figure is

not intended to demonstrate project progression, only to show the potential relationship linkages between projects from a data management perspective.

Question: What does “summary level” formula grant data mean?

Response: Clarifying language added to indicate the type and level of data that will be reviewed by the CWSP as part of the annual QAQC process. The annual QAQC process will focus on verifying data totals for each Formula Grant.

Appendix A:

Suggestion to remove mention of eligibility criteria and references to chapter 6 were not accepted to retain clarification that projects listed in the appendix tables may be subject to eligibility considerations.

Suggestion to edit project descriptions in the appendix tables were not incorporated because the project descriptions were taken directly from the CWIP Funding Policy Project Types Table to maintain consistency in project descriptions.

Question: Does the Grass Conveyance Swale project type require infiltration rate for data required to estimate pollutant reduction?

Response: infiltration rate is not a required data point for this practice type.

Question: wouldn't MRGP be considered regulatory?

Response: projects implemented with the intent of meeting MRGP permit compliance are regulatory projects that would be ineligible for Formula Grant funds. However, to maintain consistency in phosphorus accounting methods, the standards used for the MRGP permit are adapted to apply to private road projects. Please see the [Standard Operating Procedures for Tracking & Accounting of Developed Lands Regulatory Projects & Non-Regulatory Clean Water Projects](#) for more information.

Question: is TMDL drainage area different than Watershed Boundary ID?

Response: these are different delineations. Layers showing each can be found in the ANR Atlas: <https://anrmaps.vermont.gov/websites/anra5/>

Corrected error in Table 6: Wetland Restoration - Implementation projects will use FFI data requirements to calculate estimated phosphorus load reduction. Specific criteria required to calculate estimated phosphorus reductions through FFI for wetland restoration projects are subject to future refinement/clarification.

Question: is HUC 12 watershed the same as Watershed Boundary ID?

Response: these are different delineations. HUC 12 is a 12-digit ID number, Watershed Boundary ID is a two part ID with the structure VTXX-XX. Layers showing HUC 12 and Watershed Boundary ID can both be found in the ANR Atlas: <https://anrmaps.vermont.gov/websites/anra5/>

Question: is there a proposed method for calculating field average slope?

Response: average field slope is an optional data point. Currently, DEC does not have a standard method for calculating field slope.

Question: is there no phosphorus reduction calculation for Barnyard/Production Area Management practices?

Response: data required to calculate phosphorus reductions for this practice type is collected through Agency of Agriculture Farm and Markets farm inspections.