

**Vermont Department of Environmental Conservation
Agency of Natural Resources
Responsiveness Summary to Public Comments Regarding:**

**Clean Water Service Delivery Act Guidance Chapter 10 – Assignment,
Reassignment and Replacement**

On June 10, 2024, the Vermont Department of Environmental Conservation (DEC) of the Agency of Natural Resources (ANR) released for public comment a final draft of Chapter 10 of Guidance for the Clean Water Service Delivery Act on Assignment, Reassignment and Replacement. The public comment period ended on July 10, 2024. The chapter was posted on DEC's website and notice of this posting was sent to stakeholders.

The DEC prepared this responsiveness summary to address specific comments and questions and to indicate how the Guidance has been modified. Comments may have been paraphrased or quoted in part.

Public comments:

DEC received one set of 'comments' in the form of red-lined revisions to the draft Chapter 10 language. Proposed changes that are substantive in nature are addressed below.

Comment #1:

In paragraph 2c, the term 'knowingly and deliberately' is proposed, as follows:

'The entity has knowingly and deliberately failed to comply with ~~adhere to~~ 10 VSA Chapter 39, Subchapter 5; the Chapter 39 Environmental Protection Rule; or the terms of any-its State of Vermont grant agreement.'

Response #1:

DEC disagrees and declines to make this revision. In issuing formula awards, DEC has discretion to evaluate CWSP performance.

Comment #2:

The following language was proposed to be added at the end of paragraph 2d:

'Prior to any de-assignment action by DEC, the CWSP shall be entitled to review and respond to all comments received under section 39-801 as well as the Secretary's written responses to those comments.'

Response #2:

DEC agrees that a CWSP should be allowed to review comments that impact when a CWSP is not reassigned. The following language has been added at the end of this section:

'Prior to any final de-assignment action by DEC, the CWSP shall be entitled to review and respond to ANRs decision on de-assignment, as well as all comments that were cited as justification for de-assignment, and the CWSPs response will become part of the public record.'

Comment #3:

The following revision was proposed for paragraph 2e:

'The entity has been convicted of violatinged any federal , state, or local law or regulation.'

Response #3:

DEC disagrees and declines to make this revision. CITE RULE - In issuing formula awards, DEC has discretion to evaluate CWSP performance.

Comment #4:

The following language was proposed as an additional item to the list in Section 3a:

'Reopen contract with CWSP. ~~Modify any other term of service, or take any other action, as appropriate.~~

Response #4:

DEC agrees this addition, and this language has been added to the chapter. DEC disagrees with the strikethrough, as DEC has discretion, through the issuance of a Corrective Action Plan, to propose changes to a CWSP's term of service. See CWSP Rule, §39-702.

Comment #5:

How would de-assignment as described in the proposed Guidance conform with existing CWSP contract provisions?

Response #5:

CWSP grant agreements incorporate Guidance provisions therein.

Comment #6:

Will there be, or could there be, an appeal process for CWSPs as part of de-assignment?

Response #6:

As a financial (grant) program, DEC has discretion to evaluate CWSP performance, and an appeal process is not appropriate for this program. As noted elsewhere in the chapter, DEC's first preference is to work with a CWSP to correct any deficiency of service, whenever possible.