

Vermont Clean Water Initiative Program Ecosystem Restoration Funding Policy

July 16, 2018



DRAFT Vermont Clean Water Initiative Program

Ecosystem Restoration Funding Policy

I. BACKGROUND

The Vermont Department of Environmental Conservation (DEC) Clean Water Initiative Program (CWIP) provides ecosystem restoration funds in the form of grants and contracts to support projects that reduce sediment and nutrient pollution, including phosphorus, from runoff and soil erosion that discharge into the state's rivers, streams, lakes, ponds and wetlands. CWIP also provides technical support to the state board charged with administering clean water investments in priority water quality restoration.¹ Projects supported by ecosystem restoration funds focus on: stormwater runoff and erosion abatement from developed lands, natural resource restoration, agriculture and forest management runoff controls, and equipment with demonstrated water quality benefit.

CWIP tracks and reports on priority projects to restore Vermont's waters, and communicates progress toward meeting water quality restoration targets in addition to managing the ecosystem restoration grant funds. These water quality targets are outlined in long-term remediation plans known as Total Maximum Daily Loads (or TMDLs).² TMDL implementation is supported by state authorities contained in the Vermont Clean Water Act (Act 64 of 2015 or "the Act").³

Vermont's rural characteristics mean that much of the state's water quality challenges are the result of "nonpoint source pollution" -- diffuse pollution sources caused by

¹ Act 64 (2015) created the Vermont Clean Water Fund, a dedicated source of funding that strategically targets priority water quality improvement actions. The Act created a Clean Water Fund Board to receive and manage the funds. This policy uses a general reference to a state board and clean water investments in case board names or funding sources change over time. See:

<https://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT064/ACT064%20As%20Enacted.pdf>.

² A total maximum daily load (TMDL) sets pollutant reduction targets from a range of sources to achieve state water quality standards of an impaired water body. Federal Water Pollution Control Act of 1972, 33 U.S.C. Section 1251 et seq., Section 303(d).

³ Act 64 of 2015 is available at:

<https://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT064/ACT064%20As%20Enacted.pdf>.

rainfall or snowmelt or erosion.⁴ These nonpoint sources are the leading cause of nutrient and sediment pollution in Vermont and come from a variety of land use sectors including developed lands, roads, agricultural lands, logging areas.

The various land use sectors contributing to nonpoint source pollution require the state to take a comprehensive approach to addressing these sources. The state has adopted an “all in” approach, which involves strengthening partnerships with municipalities, farmers, businesses, regional organizations and landowners. This collaborative approach also involves close coordination across state agencies to track progress in achieving the state’s clean water goals that is transparent and accountable to the public.

CWIP is taking the lead in coordinating tracking and reporting, which involves working closely with the agencies of Administration, Agriculture, Food and Markets, Commerce and Community Development, Natural Resources; and Transportation, as well as federal partners including the U.S. Department of Agriculture Natural Resources Conservation Service through the Lake Champlain Regional Conservation Partnership Program (RCPP) and the Lake Champlain Basin Program. In addition, CWIP offers technical expertise in municipal stormwater master planning, illicit discharge detection and elimination, and green stormwater infrastructure.

II. PURPOSE

CWIP manages several grant programs, as outlined in Table One (standard grants) and Table Two (block grants; see pages 6-7). This CWIP Ecosystem Restoration Funding Policy (“the Policy”) offers clarity and transparency to grant and contract applicants, clean water improvement project proponents, state agencies, other program partners, and the public by presenting overarching grant program goals, CWIP funding priorities, and how the CWIP administers clean water programs.

Grant programs, funding priorities and grant funding budgets will change over time. Appendix A contains the FY2019 CWIP Spending Plan and the priority basins for this fiscal year. Applicants should continue to reference the CWIP Ecosystem Restoration

⁴ Nonpoint sources of pollution are sources that do not meet the Clean Water Act’s legal definition of point source. Nationally, nonpoint source pollution is the leading causes of water quality degradation. U.S. Environmental Protection Agency, Nonpoint Source Pollution: The Nation’s Largest Water Quality Problem, EPA841-F-96-004A: <http://water.epa.gov/polwaste/nps/outreach/point1.cfm>.

Grants Manual to provide guidance and step-by step instructions on completing a CWIP ecosystem restoration grant application.⁵

III. STATE WATER QUALITY GOALS

a. General Priorities

An important objective of CWIP is to target funds to assist in achieving the goals of federal and state TMDLs and compliance with the Vermont Clean Water Act (Act 64 of 2015), and the 2016 Combined Sewer Overflow Rule. Another important objective is to restore natural resources to maximize Vermont's overall resilience to future flooding, as describe in Act 138 of 2012.⁶

Act 64 established a fund, originally referred to as the Clean Water Fund, to complement, enhance and leverage existing resources, and provide value to taxpayers. CWIP focuses on priorities described in Act 64 of 2015 and modified in Act 154 (2016) and Act 168 (2018):

- Address sources of water pollution in waters listed as impaired (33 U.S.C. §1313(d));
- Address sources of water pollution identified as significant contributors of water pollution;
- Restore riparian (lands adjacent to waterways) conditions to minimize the risk of flood damage;
- Support state and municipal compliance with road-related stormwater permit requirements;
- Provide education and outreach regarding the implementation of water quality requirements;
- Support innovative or alternative technologies or practices to improve water quality;
- Purchase land to take land out of practice, when State requirements cannot be remediated through Best Management Practices;
- Assist municipalities in the establishment and operation of stormwater utilities;
- Invest in watershed basin planning, water quality project identification screening, water quality project evaluation and conceptual plan development of water quality projects;

⁵ Ecosystem Restoration Grants Manual available at: <http://dec.vermont.gov/watershed/cwi/grants>.

⁶ Act 138 (2012) available at: <http://www.leg.state.vt.us/DOCS/2012/ACTS/ACT138.PDF>.

- Prioritize awards to municipalities for compliance with water quality requirements during the first three years of the Clean Water Fund; and
- After satisfying the above priorities, attempt to provide investment in all watersheds of the State based on the needs identified in watershed basin plans.

b. TMDL Implementation under the Direction of Tactical Basin Plans

Tactical basin plans are the implementation road-maps for TMDLs at the watershed scale, used to identify and prioritize clean water improvement projects. Each plan is updated on a five-year basis.⁷ Moreover, the U.S. Environmental Protection Agency (EPA) will be evaluating Vermont’s progress in achieving Lake Champlain phosphorus reduction targets through the issuance of report cards at the close of each five-year tactical basin planning cycle, as described in the Lake Champlain TMDL Accountability Framework.⁸ While there will be some ecosystem restoration funds available statewide each year, CWIP anticipates targeting funds based on tactical basin planning and Lake Champlain TMDL report card schedules. The list of priority basins for FY2019 can be found in Appendix A.

IV. TYPES OF CWIP CLEAN WATER GRANTS

The CWIP uses its clean water grant programs to support projects identified in tactical basin plans and listed in the DEC Watershed Projects Database as priority.⁹ Table 1 and Table 2 outline CWIP’s ecosystem restoration standard grants and block grants, respectively.

Funding levels for each grant program type are subject to the amount of available funds. Funding to support the program delivery costs for the Municipal Road Grants-in-Aid Block Grant, the Ecosystem Restoration Woody Buffer Block Grant, and the Design and Implementation Block Grant will be based on 15% of actual expenditures. The Partnership Block Grant is eligible for a 10% program delivery cost. The River

⁷ DEC developed tactical basin planning as a coordinated watershed-based technical assessment and planning approach to promote efficient and cost-effective implementation of water pollution controls. The process uses monitoring and assessment results, combined with sector-specific planning processes, to identify and prioritize implementation projects. Refer to the statewide schedule:

http://dec.vermont.gov/sites/dec/files/wsm/mapp/docs/mp_MonitoringAssessmentPlanningRotation.pdf.

⁸ See the Phosphorus TMDLs for Vermont Segments of Lake Champlain Accountability Framework, page 58 at: https://ofmpub.epa.gov/waters10/attains_impaired_waters.show_tmdl_document?p_tmdl_doc_blobs_id=79000.

⁹ DEC Watershed Projects Database is used to prioritize projects for implementation, and to track results of projects once implemented; see Database at: <https://anrweb.vt.gov/DEC/IWIS/ARK/ProjectSearch.aspx>.

Corridor Easement Block Grant is not eligible for program delivery cost. See Appendix A for the FY2019 CWIP spending plan.

Table 1. DEC CWIP Standard Clean Water Grant Programs

Program	Areas of Focus	Grant Size	Match Requirement
Ecosystem Restoration Grants	To support: (a) development and implementation of projects identified in tactical basin plans and listed in the Watershed Projects Database, b) stormwater utility planning; (c) wetlands restoration projects as part of the U.S. Dept. of Agriculture’s wetlands restoration initiatives including the Resource Conservation Performance Partnership (RCPP); (d) state agency identified high priority restoration activities	Minimum grant size: \$20,000	(a) Stormwater sector: Cash or in-kind match in MS4 municipalities ¹⁰ and other TMDL-required projects (50%); (b) Other projects: grant process favors project proposals that provide greater match (cash or in-kind)
Partnership Grants and Contracts	To support partnerships via: (a): work crew support of implementation projects; (b) technical outreach and capacity building; (c) Tactical Basin Planning Support; (d) Cooperative Agreements; (e) technical support	Minimum grant size: \$20,000	No match requirement
Analytical Services	To support water quality monitoring projects, analytical and laboratory services, LaRosa Partnership grants, mapping, innovation, and contracting for state priority projects	No specific funding size	No match requirement

Table 2. DEC CWIP Clean Water Block Grant Programs

¹⁰ For information regarding the Municipal Separate Storm Sewer System (MS4) General Permit, see: <http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/ms4-permit>.

Program	Areas of Focus	Grant Size	Match Requirement
Municipal Roads Grants-in-Aid Block Grant	To provide funds to municipalities to implement road erosion control projects that bring hydrologically connected road segments into full compliance with the Municipal Roads General Permit standards	Disbursement formula based on municipal hydrologically connected road-miles	Cash or in-kind match (20%)
Design / Implementation Block Grant – Year 2 Pilot	To support multiple projects involving preliminary design, final design and/or implementation. Individual projects are identified in tactical basin plans and listed in DEC Watershed Projects Database. A minimum of 50% of the awarded funds must support projects that cost at or below \$20,000.	Minimum grant size: \$500,000	(a) Stormwater sector: Cash or in-kind match for stormwater management projects in MS4 municipalities and other TMDL-required projects (50%); (b) Other projects: grant process favors project proposals that provide greater match (cash or in-kind)
River Corridor Easement Block Grant	To support multiple river restoration using river corridor easements	Minimum grant size: \$15,000	No match requirement
Ecosystem Restoration Woody Buffer Block Grant – Pilot	To support multiple woody buffer restoration projects along river corridors, floodplains, shorelands and wetlands	Minimum grant size: \$50,000; Maximum grant size: \$100,000	Grant process favors project proposals that provide greater match (cash or in-kind)
Partnership Block Grant - Pilot	To support project development for multiple projects using a block grant	Minimum grant size: \$20,000	No match requirement

V. ROLES & RESPONSIBILITIES

a. Department of Environmental Conservation

CWIP works closely with DEC's Administration and Innovation Division (AID) to develop the grant funding policy, grant applications and manual. CWIP provides outreach, and training opportunities to support project proponents seeking grant funding. DEC uses project review committees, made up of CWIP staff and a reviewer external to the program, to review and rank all grant proposals received and make final recommendations for funding.

The Committee reviews, ranks and makes final recommendations for funding. Committee members have technical expertise in all water quality sectors including stormwater management, agricultural runoff controls, and natural resources (rivers, wetlands and lakes). Committee members are provided several tools to use in the evaluation, including a scoring rubric with descriptions of how to assign points to each element of an application and staff comments. The review committee relies on the input from DEC technical staff about the proposed projects. Those comments are made available to the committee either as part of the grant review process or as project information contained in the DEC Watershed Projects Database.

Act 84 (2017) requires that any agency receiving capital funds for clean water improvement projects in state fiscal years 2018 and 2019 consult with the State Treasurer to ensure that the projects are capital eligible.¹¹ CWIP worked with the State Treasurer to establish a consultation process that facilitates their review of capital-fund supported clean water improvement projects across state government. The State Treasurer assigned DEC as the clearinghouse, in coordination with the Agency of Administration, to determine capital eligibility for clean water projects. CWIP uses that process to consult with the State Treasurer from time to time on matters pertaining to capital fund eligibility for all clean water investments, in compliance with Act 84.

b. Applicant Responsibilities

Applications and requirements change periodically. Applicants are responsible for reviewing the guidance provided in the Grants Manual, completing the applications and filing all required materials according to the instructions provided for that

¹¹ See Act 84 (2017), Sec. 11(k), p. 13 available at: <https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT084/ACT084%20As%20Enacted.pdf>.

respective grant round. If a project application is funded, the DEC will issue an award letter which will direct the grant recipient to sign the grant agreement within 60 days of the finalized agreement or the award may be rescinded, and funds may be reallocated to another project. Applicants should also review Section VII for responsibilities to avoid natural resource impacts.

c. Clean Water Board Responsibilities

Act 64 (2015) established the Clean Water Fund and a Clean Water Board to administer the Fund.¹² The Clean Water Board meets periodically to draft a clean water funding budget that relies on existing state clean water funding streams (such as the state Capital Funds and a surcharge to the property transfer tax). After public notice and comment, the Board drafts its final proposal for investing state clean water revenues, which is then integrated into the state budget process for legislative review and approval.

The Board's oversight is to ensure that clean water investments made are strategic, targeting those activities that are to improve the water quality of Vermont's surface waters in the most cost-effective manner possible. This funding policy describes how CWIP will manage its annual allocation of clean water funds it receives from the state budget process.

d. Opportunities for Public Engagement in the Clean Water Fund Budget Process

As described above, Act 64 (2015) established a state board to manage and recommend, as part of the state annual budget process, the use of state water quality funding. The CWIP's annual spending plan, outlined in Appendix A, is based on the final Clean Water Fund annual budget. The public has multiple opportunities to engage in the Board's annual budget-setting process.¹³

VI. GRANT ELIGIBILITY

a. Organization

CWIP makes grants to eligible organizations, including: Vermont municipalities, regional organizations, non-profit associations, citizen groups, and state agencies. An eligible applicant can apply for funding to complete a project on property owned by non-eligible entities, but the funds can only be used for direct costs associated with the

¹² S.260 (2018) changed the name of the Board to Clean Water Board.

¹³ Refer to the state budget-setting process for public engagement opportunities: <http://dec.vermont.gov/watershed/cwi/cwf/budget-process>.

project. DEC will review all grant applications for eligibility and administrative completeness prior to accepting and advancing the applications for evaluation by the Project Review Committee.

b. Project Types

Projects supported by ecosystem restoration funds focus on: stormwater runoff and erosion abatement from developed lands with impervious surfaces (including roads), natural resources restoration, agriculture and forest management runoff controls, and equipment with demonstrated water quality benefit.

c. Capital Funds

Any grant award for a clean water improvement project that relies on proceeds from the state's general obligation bonds must be "capital eligible" to uphold the tax-exempt status of those bonds. Capital fund-*ineligible* projects typically include an activity *with a primary focus* on one or more of the following: (a) Education and Outreach; (b) water quality monitoring not directly required for implementation of the capital project; and (c) long-term project maintenance. DEC is responsible for ensuring that the use of capital funds for clean water improvement projects will not compromise the tax-exempt status of the state's general obligation bonds.

d. Property Transfer Tax Surcharge

A surcharge on the Property Transfer Tax delivers additional state revenues to the Clean Water Fund annually. The revenues support a wider variety of uses than capital funds, including assessment and mapping, planning, education and outreach, technical assistance, training, and agency operational capacity.

VII. PROJECTS THAT CAUSE NEGATIVE IMPACTS TO NATURAL RESOURCES

a. Beneficial Functions of Natural Resources

The restoration and protection of the Vermont's natural resources is a priority for the state, as described in DEC's Surface Water Management Strategy.¹⁴ Additionally, the Lake Champlain and Lake Memphremagog phosphorus TMDLs include pollutant

¹⁴ DEC Surface Water Management Strategy available at: <http://dec.vermont.gov/watershed/map/strategy>.

reduction targets tied to the restoration and protection of river corridors, floodplains, wetlands, woody buffers and timber management.

Healthy and well-functioning rivers and their floodplains, wetlands, and forests improve water quality, help to avoid future treatment costs, provide resilience to the impacts from future flooding, and support aquatic habitat, as well as support societal benefits such as enhancing recreation and tourism and maintaining property values.

A recent DEC legislative report points to land use changes – including conversion from forest to developed land, from grassland to cropland, or from open land to developed land – that can compromise or destroy the beneficial functions of these natural resources.¹⁵ The report makes note that such impacts to natural resources can increase the rate of phosphorus runoff per acre, despite the application of good water quality management practices.

b. Avoiding Negative Impacts to Natural Resources

It is a goal of CWIP to manage clean water grant programs that avoid negative, long-term impacts to natural resources. “Long-term” is defined as any period of time that extends beyond the construction or installation of the practice. Such projects cause significant delay in the recovery of those natural resource functions. There may be short-term impacts to natural resources that occur as the result of the construction or installation of water quality improvement projects. CWIP will require adequate erosion and sediment controls to minimize or avoid those short-term impacts.

c. Projects that Require State Permits

There are occasions where projects that propose to install practices to control runoff or erosion or reduce the delivery of pollutant loading may trigger one or more state or federal permits. These permit requirements help to ensure that the installation of pollution abatement practices avoid or cause minimal impacts to natural resources.

Table 3, below, summarizes how CWIP will treat grant applications that may pose negative impacts to natural resources. Please refer to the Ecosystem Restoration Grants Manual for further information on grant eligibility.

¹⁵ Act 97 of 2014 DEC report entitled, “Vermont’s Clean Water Initiative,” prepared for the Vermont General Assembly, November 17, 2014: <http://dec.vermont.gov/sites/dec/files/wsm/erp/docs/Act-97-Report-What-Is-The-Clean-Water-Initiative-Jan-2015.pdf> at 12.

Table 3. Treatment of Project Proposals that May Cause Negative Impacts to Natural Resources

Degree of Negative Impact to Natural Resource	CWIP Funding
No impact; no permit necessary	Eligible for review
Project requires a non-reporting general permit from DEC	Eligible for review
Project may cause temporary impact (during time of construction)	Eligible for review
Project achieves net water quality improvement, has minimized impacts but requires a state permit	Eligible for review
Combined Sewer Overflow projects that involve green stormwater infrastructure that may trigger a state stormwater permit to mitigate negative impacts	Eligible for review
New or expanded development that seek funding for compliance with a state permit or state order to mitigate negative impacts	Ineligible
Implementation projects: it is unclear if the project causes impacts or needs permit(s)	Ineligible
Project causes long-term impact (beyond time of construction) and cannot be permitted	Ineligible

VIII. CONCLUSION

This Policy describes the CWIP’s grant programs used to direct investments in clean water improvements and presents the state funding priorities that target the state’s legal obligations under state and federal law. CWIP uses outcome-based performance measures to track the effectiveness of these investments in reducing nutrient and sediment pollution and the state’s overall progress in meeting its clean water goals.

This Policy provides municipalities, regional planning commissions, conservation districts, farms and farmer organizations, watershed and lake organizations and the public an overview of the CWIP grant programs and funds that are available. The Policy also describes how project proponents can participate or engage in clean water activities locally and across Vermont. For more information, contact the DEC CWIP at: <http://dec.vermont.gov/watershed/cwi/grants>.

Dated this 16 day of July 2018 at Montpelier, Vermont.



Emily Boedecker

Date

Department of Environmental Conservation
Commissioner

Appendix A: State Fiscal Year 2019 Clean Water Initiative Program Ecosystem Restoration Grants Spending Plan

Updated October 9, 2018

Table 1 outlines the Ecosystem Restoration Grants Spending Plan (the “Plan”) for State Fiscal Year (FY) 2019. These grants support clean water improvement projects that focus on reducing sediment and nutrient pollution, including phosphorus, from runoff and soil erosion that discharge into the State’s rivers, streams, lakes, ponds and wetlands.

Table 1: FY2019 Clean Water Initiative Program Ecosystem Restoration Grants Spending Plan

	Capital Bill	Clean Water Fund	General Funds	Total
I. Ecosystem Restoration Grants				
Natural Resources				
Natural Resources Restoration	\$258,909	\$140,000		\$398,909
Lake Carmi-Aeration	\$1,600,000			\$1,600,000
RCPP-Wetlands	\$250,000			\$250,000
Forestry WQ Assistance (including skidder bridge support)	\$50,000			\$50,000
Stormwater/Developed Lands				
Assessment & Project Prioritization Inventory, Utility Planning		\$130,086		\$130,086
Illicit Discharge Detection and Elimination (IDDE) Contract		\$62,154		\$62,154
VTrans Better Roads Manual Update		\$4,260		\$4,260
School Stormwater Assessment/Early Adoption Project		\$100,000		\$100,000
Construction Step 1-3 (Design-Build)	\$1,611,500			\$1,611,500
SUBTOTAL (I)	\$3,770,409	\$436,500	\$0	\$4,206,909
II. Partnership Grants and Contracts				
Work Crew Support		\$215,000		\$215,000
Technical Capacity Grants		\$35,740		\$35,740
Tactical Basin Planning Support		\$330,000		\$330,000
UVM SeaGrant - Extension / Technical Support		\$50,000		\$50,000
Vermont League of Cities and Towns - Extension / Technical Support			\$50,000	\$50,000
Municipal Wastewater Treatment Plant Optimization Project		\$100,000		\$100,000
SUBTOTAL (II)	\$0	\$730,740	\$50,000	\$780,740
III. Analytical Services				
LaRosa Laboratory Support for Watershed Monitoring				
LaRosa Laboratory Support for Watershed Monitoring		\$100,000		\$100,000
Analytical Services		\$50,000		\$50,000
State parcel mapping, ANR share of costs		\$40,000		\$40,000
Rivers Project Identification, Tracking, and Mapping		\$100,000		\$100,000
SUBTOTAL (III)	\$0	\$290,000	\$0	\$290,000
IV. Municipal Roads Grants-in-Aid Block Grant				
Project Delivery and Implementation	\$3,090,000			\$3,090,000
Municipal Equipment		\$87,760		\$87,760
SUBTOTAL (IV)	\$3,090,000	\$87,760	\$0	\$3,177,760
V. Design / Implementation Block Grant - Year 2 Pilot	\$1,500,000			\$1,500,000
VI. River Corridor Easement Block Grant	\$499,013			\$499,013
VII. Ecosystem Restoration Woody Buffer Block Grant - Pilot	\$175,000	\$40,000		\$215,000
VIII. Partnership Block Grant - Pilot		\$45,000		\$45,000
SUBTOTAL - DEC	\$9,034,422	\$1,630,000	\$50,000	\$10,714,422
Capital Bond Costs	\$15,578	\$0	\$0	\$15,578
TOTAL	\$9,050,000	\$1,630,000	\$50,000	\$10,730,000