

Vermont Clean Water Initiative Program (CWIP) State Fiscal Year (SFY) 2021 Funding Policy

Questions and Answers

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The following are questions and answers on the *Vermont Clean Water Initiative Program (CWIP) State Fiscal Year (SFY) 2021 Funding Policy*. The Funding Policy and Question and Answer document are available electronically at: <https://dec.vermont.gov/water-investment/cwi/grants>.

Submit additional questions—if not already addressed in this document—to ANR.CleanWaterVT@vermont.gov with “CWIP Funding Policy Q&A” as the subject line.

Funding Policy Question and Answers Table of Contents

SFY 2021 Clean Water Initiative Program Funding Policy	2
DEC and Partner Roles and Responsibilities	2
Determination of Eligibility.....	3
Eligibility Screen #1: Project Types and Standards	3
Eligibility Screen #2: Budget.....	6
Eligibility Screen #3: Recipient Entities	8
Eligibility Screen #4: Project Landowner	8
Eligibility Screen #5: Natural Resource Impacts.....	8
Eligibility Screen #6: Leveraged Funds Requirements.....	9
Eligibility Screen #7: Long-Term Operation and Maintenance.....	10
Anticipated Future Funding Policy Updates.....	11
Clean Water Service Delivery Act (Act 76 of 2019)	11
Environmental Justice and Diversity, Equity, and Inclusion	11

SFY 2021 Clean Water Initiative Program Funding Policy

- 1. Clarifying that all projects under existing grant agreements with DEC, including block grant, will utilize the previous funding policy.**

Answer: The CWIP SFY 2021 Funding Policy applies to agreements and agreement renewals executed since the SFY 2021 Funding Policy went into effect (February 4, 2021).

- 2. How can interested parties be notified of funding opportunities, including grant rounds administered by block grant recipients?**

Answer: Subscribe to CWIP's Grant Notification List for notifications of funding opportunities at: <https://us11.list-manage.com/subscribe?u=c6b92b591e58d2c3dcd90daf6&id=78ab4a4b2e>. CWIP will coordinate with block grant recipients to announce grant rounds administered by block grant recipients through this notification list.

DEC and Partner Roles and Responsibilities

- 3. Please specify who is responsible for certifying that projects and expenses are compliant with CWIP funding policy, and/or for issuing a ruling if there is a disagreement about if a project or expense is compliant with this policy. This will have implications both for current block grant funding (especially the Design & Implementation block grant) and upcoming funding issued through Act 76). This responsibility may also be different for different funding mechanisms but should be specified in each case.**

Answer: The direct recipient (grantee or contractor) of CWIP funds is responsible for ensuring funds are only used for eligible projects and expenses. The direct recipient of funds is responsible for ensuring these requirements are upheld by subrecipient(s) (subgrantee or subcontractor) under the agreement. This applies to agreements that fund individual projects, as well as block grant agreements funding multiple projects. Submit questions on project and expense eligibility—if not already addressed in the Funding Policy or document—to ANR.CleanWaterVT@vermont.gov with "CWIP Funding Policy Q&A" as the subject line.

Determination of Eligibility

Eligibility Screen #1: Project Types and Standards

4. Eligibility screen #1 states that a project is ineligible if "Project...can be funded through other grant sources (projects may be eligible if other options are exhausted and justification is provided, subject to CWIP approval)." WUV is concerned about the broadness of the restriction as it is not feasible to explore all possible funding opportunities that exist. Is this prohibition only if the project can be funded through other DEC/state grants?

Answer: This prohibition is regarding other state and federal funding sources based on project category. The intent is to avoid duplication of effort, funding, tracking, and reporting among state and federal agency funding programs. The Funding Policy states, "Agriculture projects must first pursue other funding sources (e.g., Agency of Agriculture, Food and Markets, U.S. Department of Agriculture, and Vermont Housing and Conservation Board) before pursuing CWIP funds. Municipal road projects must first pursue other funding sources (e.g., Agency of Transportation) before pursuing CWIP funds. Forestry projects must first pursue other funding sources (e.g., U.S. Department of Agriculture and Vermont Department of Forests, Parks and Recreation) before pursuing CWIP funds."

5. Eligibility screen 1 states grantees should "exhaust" other grant sources – it is impossible to know when any and every possible grant source is exhausted, consider changing to 'state-sponsored grant sources' or similar.

Answer: See answer to question #4.

6. The ineligible project summary states that "Projects dealing with private driveways, unless the project is addressing regulatory requirements of operational stormwater General Permit 3-9050 (i.e., Three-Acre General Permit) and the Municipal Separate Storm Sewer System (MS4) General Permit" are ineligible. Many watershed groups and others have identified private driveways as a significant input of sediment and nutrients into waterways. Is there any funding avenue in place to fund private driveway stormwater projects? If projects are identified that have a significant water quality benefit and happen to be located on/near private driveways, could this be waved with approval from DEC?

Answer: "Projects dealing with private driveways" is further defined as projects involving rehabilitation and resurfacing of eroding private driveways. State clean

water funding, including CWIP funds, is not intended to improve and/or maintain private property infrastructure. If a stormwater treatment practice meets all eligibility screens and part of the practice's drainage area (i.e., area treated) includes private driveways, stormwater treatment practices design and implementation may be eligible for CWIP funds. Stormwater treatment practices should not be sited in areas where erosion and sediment loads (e.g., sediment runoff from private driveways) will adversely affect the long-term performance of the practice. Erosion and/or sediment loads should be addressed in the practice's drainage area before stormwater treatment practice implementation.

7. For three-acre permits, the policy states: "Future Three-Acre General Permit sites in other parts of the state are considered nonregulatory projects at this time. If a site is anticipated to fall under the Three-Acre General Permit jurisdiction in the future, the project must meet the Three-Acre General Permit redevelopment standards to be eligible for CWIP funds."

a. Does this mean that only three-acre design (not implementation) projects can be developed outside of the Lake Champlain and Lake Memphremagog basins or can we provide implementation funds if a project meets the redevelopment standards outside these basins?

Answer: The SFY 2021 Funding Policy defines Three-Acre General Permit sites as limited to the Lake Champlain and Lake Memphremagog basins and stormwater impaired watersheds. Stormwater treatment practices at possible/future Three-Acre General Permit sites outside the Lake Champlain and Lake Memphremagog basins and stormwater impaired watersheds are eligible for design and implementation funds if practices are designed and implemented to achieve at least the redevelopment standard for the full site. Permit obtainment is not required for possible/future Three-Acre General Permit sites outside the Lake Champlain and Lake Memphremagog basins and stormwater impaired watersheds under the SFY 2021 Funding Policy, but landowners/permittees should be aware that additional work/investment may be necessary in the future to comply with the Three-Acre General Permit.

b. We also would like guidance and clarification on project eligibility inside and outside of the Lake Champlain/lake Memphremagog basin for projects on three-acre properties that are not addressing the regulatory permit requirements.

Answer: The SFY 2021 Funding Policy defines Three-Acre General Permit sites as limited to the Lake Champlain and Lake Memphremagog basins and stormwater impaired watersheds. Stormwater treatment practices implemented at Three-Acre General Permit sites must be designed to bring site into full compliance with the Three-Acre General Permit to be eligible for funds. The Three-Acre General Permit must be obtained before the site can be eligible for implementation funds. Future/ potential Three-Acre General Permit sites located outside this geographic scope are not considered “Three-Acre General Permit projects” and are not eligible for funds specified to support Three-Acre General Permit compliance in SFY 2021. Non-stormwater projects that happen to be located at Three-Acre General Permit sites are not subject to Three-Acre General Permit requirements in the Funding Policy (e.g., a riparian buffer restoration project located at the edge of a Three-Acre General Permit site).

- 8. Please specify whether stormwater projects on a 3-acre site (but not intended to bring a site to compliance with the 3-acre permit) can be designed and/or implemented, both inside and outside the Lake Champlain/Memphremagog basins and on private/public lands if these characteristics determine eligibility.**

Answer: See answer to question #7.

- 9. Please specify if this language applies to projects today, or only once the three-acre permit is extended across the state (pg 14): “If a site is anticipated to fall under the Three-Acre General Permit jurisdiction in the future, the project must meet the Three-Acre General Permit redevelopment standards to be eligible for CWIP funds.”**

Answer: This language is effective February 4, 2021 (date the CWIP SFY 2021 Funding Policy was signed by the DEC Commissioner). Stormwater treatment practices designed and implemented at potential/future Three-Acre General Permit sites must meet at least the redevelopment standard.

- 10. WUV wants to provide our sub-grantees through the design and implementation block grant with a full picture of which three-acre projects are eligible under CWIP funding. This FY 2021 design/implementation round will fund projects being designed and implemented into FY 2022 and 2023 and we want to make sure that we are clear with our sub-grantees on how this funding can be utilized for the duration of the grant. A clear table/graphic with three-acre project eligibility information would be helpful. For instance, can we use FY 21 Design and**

Implementation funding for a three-acre private property implementation project in 2022 or 2023?

Answer: CWIP funds must be administered in accordance with the CWIP Funding Policy in effect at time of agreement/renewal execution. For example, SFY 2021 design/implementation block grant funds must be administered in accordance with the CWIP SFY 2021 Funding Policy. It is understood the timeline of projects funded with SFY 2021 funds may extend into future state fiscal years. Future Three-Acre General Permit Funding Policy changes are currently unknown.

11. Does a public entity need to have a Three-Acre General Permit in place to be eligible for funding?

Answer: Three-Acre General Permit design and permitting costs are eligible for funds under project type “Operational Stormwater Permit Obtainment” if all eligibility requirements are met. Three-Acre General Permit sites must obtain the permit coverage for the full site before construction to be eligible for construction funds through CWIP.

12. Has the definition of a Three-Acre General Permit site changed?

Answer: The definition of a Three-Acre General Permit site is included in the Operational Stormwater Permit 3-9050 and has not changed since the permit was finalized, available at: <https://dec.vermont.gov/watershed/stormwater/9050>. Contact the DEC Stormwater Program with questions on regulatory requirements.

Eligibility Screen #2: Budget

13. Please specify if these [referencing Funding Policy’s lists of ineligible projects and expense types] are complete lists or are examples of some ineligible expenses/projects. If they are not complete lists, please indicate how grantees can verify all expenses are eligible.

Answer: The Funding Policy states examples of ineligible projects and expenses based on frequently asked questions. The list is comprehensive but there may be ineligible projects and expenses not addressed. Submit questions on project and expense eligibility—if not already addressed in the Funding Policy or document—to ANR.CleanWaterVT@vermont.gov with “CWIP Funding Policy Q&A” as the subject line.

14. Please consider modifying this language: “Grant/contract recipients and sub-recipients must make every effort to utilize lowest cost materials available to achieve the intended project outcome. Construction materials should be locally sourced, where feasible. Where a project’s landowner prefers higher cost materials than those necessary to achieve project outcomes, the landowner must cover the cost differential.” (page 15). Locally sourced materials are very often not the lowest cost materials available; these are largely incompatible goals. “Every effort” is poorly defined – consider “good faith effort” or similar. For instance, a grantee may verify the price of materials based on engineer or municipality recommendations and estimates, but cannot know definitively the absolute lowest price for each material at any given time.

Answer: The CWIP SFY 2021 Funding Policy language referenced in the question, “Grant/contract recipients and sub-recipients must make every effort to utilize lowest cost materials available to achieve the intended project outcome. Construction materials should be locally sourced, where feasible.” is further defined as, “Grant/contract recipients and sub-recipients *should* factor cost of materials and local sourcing of materials when reviewing and establishing project budget.”

15. The budget section states, "Grant/contract recipients and sub-recipients must make every effort to utilize lowest cost materials available to achieve the intended project outcomes. Construction materials should be locally sourced, where feasible." WUV is concerned that the lowest cost materials requirement will not allow groups to take important environmental and social justice considerations into account and may contradict subgrantees’ procurement policies. These factors include but are not limited to: a product’s climate impact from manufacturing or shipping, environmental impact of the material, longevity and durability of the product, and importance of locally sourced materials. Can DEC modify this statement to account for these other factors in decision making on cost? Additionally, can DEC clarify that locally sourced where feasible should (or at least can) be considered even where the costs are higher? Can DEC put a more reasonable frame on “lowest cost available”? It is not feasible for grantees or subgrantees to check every possible available source option. Subgrantees are required to have procurement policies that state the parameters and expectations for selecting materials in different price ranges.

Answer: See answer to question #14.

16. Despite the addition of resiliency as a focus, do these aspects need other funding?

Answer: CWIP funds must be used for projects with the primary purpose of improving water quality. Projects with the primary purpose of improving water quality may achieve other benefits. If the cobenefit comes at a cost in addition to the costs to achieve the water quality improvement, the entity would need to cover the cost difference. In many cases, a cobenefit, such as flood resilience, may be achieved with no extra cost (e.g., floodplain restoration project achieves water quality improvement and flood resilience).

Eligibility Screen #3: Recipient Entities

17. How is it that Private for profit is ineligible, but an Environmental Consulting Firm is eligible?

Answer: See Funding Policy Table 1. Table 1 specifies that private for-profit entities are not eligible to receive/administer CWIP funds. For example, a for-profit business cannot directly apply for and administer a grant to achieve stormwater compliance at its property. Environmental consulting firms are one exception, noted in Table 1. Environmental consulting firms are contracted, as needed, to provide specialty services required for technical and project work.

Eligibility Screen #4: Project Landowner

Eligibility Screen #5: Natural Resource Impacts

18. The natural resource screening is listed as part of the eligibility screening for all projects funded under CWIP; however, we have found that for many of the projects in development under design funding, the detailed natural resource screening process can be premature for projects that have yet to be designed. WUV wants to ensure that regulators and sub-grantees are on the same page on the timing. If groups are mandated to complete a natural resource screening for a design project (particularly a preliminary design) it may lead to regulators wondering why they are being contacted with few project details. Is there flexibility on the timing of the natural resource screening for design projects; could it be considered a deliverable for a design project and not part of the eligibility process?

Answer: Refer to Appendix C for eligible project types' standard milestones and deliverables. Appendix C indicates when and how natural resource constraints/impacts should be reviewed, in consultation with DEC program staff, by project step (e.g., preliminary design, final design, and implementation).

Milestones and deliverables for each project step are designed to support natural resource constraint/impact review to determine eligibility for the subsequent project step. Milestones and deliverables, including natural resource screening steps, are not flexible to ensure consistency for all CWIP-funded projects. DEC's Watershed Planning Program is developing standard operating procedures to support project review, including natural resource constraints/impacts, and will communicate updates/improvements to partners once available.

Eligibility Screen #6: Leveraged Funds Requirements

19. Please specify if 50% match requirement for projects on private lands is for implementation only, or for design projects also.

Answer: Refer to Figure 7. Private landowners must pay 50 percent of the project cost for regulatory operational stormwater permit projects (e.g., Three-Acre General Permit projects). Regulatory operational stormwater permit projects with private landowners are only eligible for "Operational Stormwater Permit Obtainment" (design and permitting) in SFY 2021 (not eligible for implementation in SFY 2021). Leveraging is not required for non-regulatory projects with private landowners.

20. Please further define the partnership or requirements involved to be eligible as a "private entity partnered with a municipality" (page 24).

Answer: See definition of "stormwater regulatory public-private partnership" on page 25. Submit questions on requirements for "stormwater regulatory public-private partnership" —if not already addressed in the Funding Policy or document—to ANR.CleanWaterVT@vermont.gov with "CWIP Funding Policy Q&A" as the subject line.

21. There are limited project types that require leveraged funds under this CWIP policy; the vast majority of projects WUV will fund will not require leveraged funds. We want to confirm that there will not be a set obligation for leveraged funds under our design and implementation block grant except if we are funding projects that have a mandated leveraged funds requirement.

Answer: Block grants do not specify a required leveraged funding amount at the block grant-level. Leveraged funding requirements are determined based on individual projects funded under a block grant, following the Figure 7 decision tree.

22. Why is the City of Rutland not listed as a Municipal Separate Storm Sewer System (MS4) community on page 25?

Answer: DEC's Stormwater Program is working with the City of Rutland to obtain MS4 permit coverage and the City of Rutland should be considered an MS4 community with regards to CWIP leveraging requirements presented on Figure 7.

23. If the project is not regulatory requirement by MS4, does the project require 50% match?

Answer: See definition of MS4 permit regulatory project on page 25. Non-regulatory projects located in an MS4 community do not have leveraging requirements.

Eligibility Screen #7: Long-Term Operation and Maintenance

24. If implementation work is done on a private lakeshore property where the landowner is partnering with their Lake Association, which party is responsible for signing the [operation and maintenance] O&M?

Answer: It is the grant recipient's responsibility to determine O&M responsible parties for projects implemented with CWIP funds. The O&M agreement should be signed by the O&M responsible party and the project landowner. In some cases, the landowner may serve as the O&M responsible party. CWIP established an alternative O&M Agreement Template where the third party (e.g., watershed group) agrees to be the responsible party for the practice and acts as intermediary between DEC and the landowner. CWIP's required O&M agreement templates are available at: <https://dec.vermont.gov/water-investment/cwi/grants/resources>.

25. Is the O&M template required? Can there be any additional information put into the agreement?

Answer: CWIP requires use of its O&M agreement templates. See link in answer to question #24. The agreement has space to document O&M needs specific to the project.

Anticipated Future Funding Policy Updates

Clean Water Service Delivery Act (Act 76 of 2019)

Environmental Justice and Diversity, Equity, and Inclusion

26. In the webinar on this policy, it was stated that DEC is moving towards funding and recognizing co-benefits including [diversity, equity, and inclusion] DEI outcomes of projects – please specify where and how these co-benefits factor into this CWIP policy (for instance, expenses related to outreach and education are restricted).

Answer: Environmental justice, diversity, equity, and inclusion policies are under development at DEC. CWIP will incorporate these considerations in future Funding Policy updates. See page 29 for more information.