

Memorandum

To: Vermont Department of Environmental Conservation, Watershed Management Division

From: Gwynn Zakov, Municipal Policy Advocate

Date: July 22, 2022

Re: Draft Water Quality Standards, Rule Number 22P009

Please accept these comments on the Vermont Water Quality Standards, Rule Number 22P009. VLCT is submitting them on behalf of our 247 member cities and towns.

The financial impact on affected persons and parties, including municipalities with permits requiring compliance with the standards, cannot be understated. Although the agency cannot control all of the fiscal impacts on each affected person and party, it is critical for the agency to write the rules creatively and thoughtfully to lessen that burden. The following comments are submitted with this perspective in mind.

Page 9, definition of “wetland.” The definition of wetland includes “potholes,” however a pothole itself is never defined. If the terms is meant to include both landform and road surface potholes, VLCT objects to including potholes in the definition. We are concerned that an area such as water filled ditches, depressions, or holes in the highway exchanges and rights-of-way would qualify as a pothole. The ensuing fiscal impact to municipal public works projects would be substantial. A definition of pothole needs to be included in the definition section of the rules, and the definition *must* exclude road surface and associated water-filled ditches, depressions, or holes in and around road and highways systems.

Page 11, hydrology and voluntary agreements. VLCT objects to the deletion of existing language in the rules that allows the agency to join in voluntary agreements with municipalities and others relating to artificial streamflow regulations. These agreements can help all parties to work creatively and in a cost-effective manner to address any artificial streamflow regulations, and we believe they should be preserved.

Page 11, classification of water uses, “designated uses.” VLCT requests that “aesthetic conditions” be defined in new subsection (3). Such an undefined term can be interpreted very broadly and the potential unintended consequences of every subjective “aesthetic condition” when interpreting and enforcing rules will be immense. The term should be clearly defined to eliminate any subjective interpretation and thereby better clarify the scope of potential designated uses that may fall under this new subsection.