

From: Moore, Julie
Sent: Thursday, December 12, 2024 6:45 AM
To: Coster, Billy
Subject: FW: Climate Superfund Meeting Tomorrow
Attachments: Memo_Climate Superfund Timeline Workflow.docx

Want to make sure you're aware...



Julia S. Moore, P.E. | Secretary (she/her)
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Vermonters, businesses and communities impacted by the July 2024 flood should report damage to [Vermont 211](#). Find resources, guidance and referral information at [vermont.gov/Flood](#). [Volunteer to help](#) or [donate to the Vermont Flood Response & Recovery Fund](#) to support all those impacted.

From: Lazorchak, Jane <Jane.Lazorchak@vermont.gov>
Sent: Wednesday, December 11, 2024 4:48 PM
To: Pieciak, Mike <Mike.Pieciak@vermont.gov>; Moore, Julie <Julie.Moore@vermont.gov>
Cc: Doyon, Ashlynn <Ashlynn.Doyon@vermont.gov>; Wolz, Marian <Marian.Wolz@vermont.gov>; Woods, Brian <Brian.Woods@vermont.gov>; Stevens, Rachel <Rachel.Stevens@vermont.gov>; St. James, Justin <Justin.StJames@vermont.gov>; Boyles, Gavin <Gavin.Boyles@vermont.gov>
Subject: Climate Superfund Meeting Tomorrow

Afternoon Secretary Moore and Treasurer Pieciak,

We've drafted the attached memo to support the conversation between the Treasurer's Office and Agency of Natural resources tomorrow around the implementation of the Climate Superfund. The memo is intended to summarize the workflow of the requirements of the law. Based on the timelines for the two biggest needs (the liability formula and cost assessment), we also propose preliminary adjustments to the statutory deadlines for discussion from ANR's perspective (we expect the Treasurer's Office might have additional changes to discuss). Please note that the Secretary has not approved these in detail, and they are a starting point for discussion. I also want to note that more work is needed to develop an outline for the legislative report, but I think we need to have tomorrow's conversation to inform that.

A proposed agenda for tomorrow's call is as follows:

1. Brief overview of the workflow proposed for the development of the liability formula.
2. Discussion of the proposed workflow for the cost assessment with the following outcomes:
 - a. Do Secretary and Treasurer approve approach outlined in memo?
 - b. Determine how the work will be advanced collaboratively.
3. Review statutory obligations and proposed adjustments
 - a. Is there agreement on revisions?
 - b. What additional considerations would the Treasurer's Office like to see?
4. Next steps
 - a. Propose a meeting next week to review outline of legislative report to be informed by today's

conversation

- b. Do we want to include a mockup of revisions to the law with the legislative report?

Thank you,
Jane

To: Julie Moore, Secretary, Agency of Natural Resources
Mike Pieciak, Treasurer, Office of the Treasurer

From: Climate Action Office

Date: December 10, 2024

Re: Proposed Implementation Schedule and Changes to the Climate Superfund

This memo is intended to summarize the proposed timelines and workflows for the main components of the Climate Superfund Act (Act 122): 1) development of the liability formula; and 2) the cost assessment. In addition, it proposes statutory changes to the deadlines and timelines to accommodate the schedule envisioned here.

I. Current and Proposed Timeline and Resources

Obligation	Current Timeline/Resources	Proposed Change	Rationale
Rulemaking for Resilience Implementation Strategy (RIS)	File with ICAR by 7/1/25	Remove rulemaking requirement; keep deadline for completion of RIS.	We do not think the Strategy should be adopted via rulemaking, nor does it fit well in this process.
Cost Assessment	January 15, 2026	January 15, 2027	Most significant component of the work and most vulnerable to litigation. The cost assessment is not needed until demand letters are sent so this date is premature. Significant contractual resources will be needed to advance this work and likely advanced in a stepwise fashion extending the timeline.
Liability Formula	File with ICAR by July 1, 2026	No change proposed	This work can proceed independent of the cost assessment. A clear methodology of how to complete this is understood and outside resources are not needed or limited in scope.
Issuance of Cost Recovery Demand Letters	6 months after the conclusion of rulemaking or ~July 1, 2027	No change proposed	Based on the workflow articulated below and in accordance with the adjustments in the

			development of the cost assessment, we believe this timeline can still be met.
One Limited-Service Position ANR	Propose hiring now to support cost assessment development and to support mitigation staff with development of liability formula	No additional staff are needed beyond the existing position allocated to the Climate Action Office.	Additional staff will be needed once funds are collected. For now, we expect that to be years after the cost recovery letters go out. Since there will be funding then through the fund payments to contemplate if new positions are needed, we recommend utilizing the limited-service position now to manage the development of the cost assessment and to support mitigation staff with development of liability formula.
A total of \$600,000 (\$300,000 to ANR and to the Treasurer’s Office)	Will be spent over next 1-2 years	\$400,000 more for the contractual work for a total of \$700,000 and \$300,000 going to staffing.	The cost assessment will require significant contractual support and is novel work. We expect the costs to be significantly more than we have available.

II. Liability Formula Workflow

The RFI responses confirmed our approach for determining the liability of companies under Act 122 using the Carbon Majors database. The stepwise approach is sketched out below.

Step	Responsible Staff Member	Timeline
Check in with NY to see if their law passes	Jane	End of the year
ANR Counsel to draft legal memo related to jurisdictional nexus	Rachel	January 2025
Concurrence on memo from AG	Rachel	February 2025
Download Carbon Majors database to understand what it contains and gain familiarity	Brian	January 2025

Understand definition of “controlled group” in the statute which cites IRS code (Important to determine share of emissions)	Rachel or legal intern	February 2025
Apply the legal standard for jurisdictional nexus to the list of entities from Carbon Majors.	Brian	Spring 2025
Consider vetting a “test case” entity to understand the available Carbon Majors data and how we would substantiate data	Brian	Spring 2025
Consider resource needs for this component of work and develop proposal for USCA funding if warranted	Jane	May-June 2025
Determine proportional share through the Carbon Majors Database	Brian and Rachel	July-December 2025
Develop draft rule and APA filing	Brian and Rachel	Spring 2026
Pre-file draft rule with ICAR	Jane, Brian, Rachel	July 1, 2026

III. Cost Assessment Recommendations

Act 122 Section 599c requires the Treasurer, in consultation with ANR and any expert consultants, to develop an assessment of the cost to the State of Vermont and its residents of the emission of covered greenhouse gas for the covered period 1995-2024. The law requires the assessment to include:

- a summary of the various cost-driving effects of covered GHG emissions;
- a categorized calculation of the costs that have been incurred (historical damages) and are projected to be incurred in the future (future damages) for each of the effects above; and
- a categorized calculation of the historic and future costs to abate the effects (adaptation costs).

ANR received a total of six responses to the Request for Information (RFI), of which four spoke specifically about the methodology for the cost assessment. To determine the costs, the methodologies require an “attribution” of the damages associated with the covered emissions for the covered period 1995-2024.

“Event attribution” has developed as a scientific field in the past two decades and includes scientific methods that can quantify the effects of climate change on changes in the probability or intensity of a wide variety of extreme weather events, including extreme precipitation. Recent scientific developments allow these methods to be extended to assess climate change impacts on economic losses and human health. Two experts that responded to the RFI, Callahan and Mankin, developed an approach that connects the emissions of individual actors to damages on a national level. For example, to relate heat damages to individual emitters, Callahan and Mankin describe a full causal chain from emissions to impacts. In a final step, Callahan and Mankin use relationships between local temperature changes and economic growth to estimate the damages from the warming associated with one emitter.

While attribution science is key to the development of the cost assessment, it has two major limitations. This analysis has never been done for flooding, Vermont’s largest climate hazard, but it can be done in principle. Additionally, climate attribution science is not relevant for adaptation costs which is the third component (the other two being historical and future damages mentioned above) of the cost assessment. An approach to calculate adaptation costs was not described in detail across the RFI responses.

Based on the RFI responses and our understanding of the work needed to be done, we recommend the following:

- 1) We will develop a Request for Proposals (RFP) to quantify the cost of historic and future damages, and adaptation costs for flooding in Vermont using attribution science. We recommend advancing an assessment of flooding first, prior to considering all climate hazards, as this is likely the climate impact that has had the largest impact in Vermont.
- 2) We recommend that ANR be a critical partner in this work with the Treasurer’s Office, if not lead this discrete analysis. The cost assessment is the most critical component of the program development which ANR will ultimately implement and as such, ANR must understand and be a thought partner in the development of it. Finally, we expect that this analysis will require the need to understand climate attribution science as much, if not more, than the economics of the disasters. The building of this knowledge should live within the Climate Action Office.
- 3) Once cost assessment is complete for flooding, determine whether the state should pursue developing cost assessments for other climate hazards.

