

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Fish, Wildlife and Water Resources to which was
3 referred House Bill No. 517 entitled “An act relating to the classification of
4 State waters” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. § 1252 is amended to read:

8 § 1252. CLASSIFICATION OF HIGH QUALITY WATERS; MIXING
9 ZONES

10 (a) The State adopts, for the purposes of individually classifying the uses of
11 its high quality waters, the following classes and definitions ~~thereof~~:

12 ~~Class A. (1) Suitable for public water supply with disinfection when~~
13 ~~necessary; character uniformly excellent; or~~

14 ~~(2) High quality waters which~~ Class A(1): Waters in a natural condition
15 that have significant ecological value; or

16 Class A(2): Waters that are suitable for a public water source with
17 filtration and disinfection or other required treatment; character uniformly
18 excellent.

19 ~~Class B. Suitable~~ Class B(1): Waters in which one or more uses are of
20 higher quality than Class B(2) waters;

21 Class B(2): Waters that are suitable for bathing swimming and other
22 primary contact recreation; irrigation and agricultural uses; ~~good fish~~ aquatic

1 biota and aquatic habitat; good aesthetic value; acceptable boating, fishing, and
2 other recreational uses and suitable for public water supply source with
3 filtration and disinfection or other required treatment.

4 * * *

5 Sec. 2. 10 V.S.A. § 1253 is amended to read:

6 § 1253. CLASSIFICATION OF WATERS DESIGNATED,
7 RECLASSIFICATION

8 (a) The waters of all lakes, ponds, and reservoirs, natural or artificial, used
9 exclusively for as a public water supply source prior to July 1, 1971, and all
10 waters flowing into such lakes, ponds, and reservoirs, and all waters located
11 above 2,500 feet altitude, National Geodetic Vertical Datum, are designated
12 Class A waters and shall be maintained as such unless reclassified.

13 (b) The remaining waters, ~~except as otherwise classified by the Board prior~~
14 ~~to July 1, 1971,~~ are designated Class B(2) waters and shall be maintained as
15 such unless reclassified. ~~All waters designated as Class C waters prior to~~
16 ~~July 1, 1992, are designated Class B waters and shall be maintained as such~~
17 ~~unless reclassified.~~

18 (c) On its own motion, or on receipt of a written request that the Secretary
19 adopt, amend, or repeal a reclassification rule, the Secretary shall comply with
20 3 V.S.A. § 806 and may initiate a rulemaking proceeding to reclassify one or
21 more uses of all or any portion of the affected waters in the public interest. In
22 the course of this proceeding, the Secretary shall comply with the provisions of

1 3 V.S.A. chapter 25, and may hold a public hearing convenient to the waters in
2 question. If the Secretary finds that the established classification is contrary to
3 the public interest and that reclassification is in the public interest, he or she
4 shall file a final proposal of reclassification in accordance with 3 V.S.A. § 841.
5 If the Secretary finds that it is in the public interest to change the classification
6 of any pond, lake, or reservoir designated as Class A ~~waters by subsection (a)~~
7 ~~of this section~~ for a public water source, the Secretary shall so advise and
8 consult with the Department of Health and shall provide in its reclassification
9 rule a reasonable period of time before the rule becomes effective. During that
10 time, any municipalities or persons whose water ~~supply~~ source is affected shall
11 construct filtration and disinfection facilities or convert to a new water source
12 ~~of water supply~~.

13 (d)(1) Through the process of basin planning, the Secretary shall determine
14 what degree of water quality and classification should be obtained and
15 maintained for those waters not classified by the Board before 1981 following
16 the procedures in sections 1254 and 1258 of this title. Those waters shall be
17 classified in the public interest. The Secretary shall prepare and maintain an
18 overall surface water management plan to assure that the State water quality
19 standards are met in all State waters. The surface water management plan shall
20 include a schedule for updating the basin plans. The Secretary, in consultation
21 with regional planning commissions and natural resource conservation
22 districts, shall revise all 15 basin plans and update the basin plans on a

1 five-year rotating basis. On or before January 15 of each year, the Secretary
2 shall report to the House Committees on Agriculture and Forest Products, on
3 Natural Resources and Energy, and on Fish, Wildlife and Water Resources,
4 and to the Senate Committees on Agriculture and on Natural Resources and
5 Energy regarding the progress made and difficulties encountered in revising
6 basin plans. The report shall include a summary of basin planning activities in
7 the previous calendar year, a schedule for the production of basin plans in the
8 subsequent calendar year, and a summary of actions to be taken over the
9 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of
10 required reports) shall not apply to the report to be made under this subsection.

11 (2) In developing a basin plan under this subsection, the Secretary shall:

12 (A) identify waters that should be reclassified ~~as Class A waters or~~
13 outstanding resource waters or that should have one or more uses reclassified
14 under section 1252 of this title;

15 (B) identify wetlands that should be reclassified as Class I wetlands;

16 (C) identify projects or activities within a basin that will result in the
17 protection and enhancement of water quality;

18 (D) assure that municipal officials, citizens, watershed groups, and
19 other interested groups and individuals are involved in the basin planning
20 process;

21 (E) assure regional and local input in State water quality policy
22 development and planning processes;

1 (F) provide education to municipal officials and citizens regarding
2 the basin planning process;

3 (G) develop, in consultation with the applicable regional planning
4 commission, an analysis and formal recommendation on conformance with the
5 goals and objectives of applicable regional plans;

6 (H) provide for public notice of a draft basin plan; and

7 (I) provide for the opportunity of public comment on a draft
8 basin plan.

9 (3) The Secretary shall, contingent upon the availability of funding,
10 contract with a regional planning commission to assist in or to produce a basin
11 plan under the schedule set forth in subdivision (1) of this subsection. When
12 contracting with a regional planning commission to assist in or produce a basin
13 plan, the Secretary may require the regional planning commission to:

14 (A) conduct any of the activities required under subdivision (2) of
15 this subsection;

16 (B) provide technical assistance and data collection activities to
17 inform municipal officials and the State in making water quality investment
18 decisions;

19 (C) coordinate municipal planning and adoption or implementation of
20 municipal development regulations to better meet State water quality policies
21 and investment priorities; or

1 (D) assist the Secretary in implementing a project evaluation process
2 to prioritize water quality improvement projects within the region to assure
3 cost effective use of State and federal funds.

4 (e) In determining the question of public interest, the Secretary shall give
5 due consideration to, and explain his or her decision with respect to, the
6 following:

7 (1) existing and obtainable water qualities;

8 (2) existing and potential use of waters ~~for~~ as a public water supply
9 source, recreational, agricultural, industrial, and other legitimate purposes;

10 (3) natural sources of pollution;

11 (4) public and private pollution sources and the alternative means of
12 abating the same;

13 (5) consistency with the State water quality policy established in
14 ~~10 V.S.A. §~~ section 1250 of this title;

15 (6) suitability of waters as habitat for fish, aquatic life, and wildlife;

16 (7) need for and use of minimum streamflow requirements;

17 (8) federal requirements for classification and management of waters;

18 (9) consistency with applicable municipal, regional, and State plans; and

19 (10) any other factors relevant to determine the maximum beneficial use
20 and enjoyment of waters.

1 (f) Notwithstanding the provisions of subsection (c) of this section, when
2 reclassifying waters to Class A, the Secretary need find only that the
3 reclassification is in the public interest.

4 (g) The Secretary under the reclassification rule may grant permits for only
5 a portion of the assimilative capacity of the receiving waters, or may permit
6 only indirect discharges from on-site disposal systems, or both.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect on passage.

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11 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE