

1 Sec. 1. 10 V.S.A. § 1253(h) is added to read:

2 ~~(h)(1) The Secretary shall administer a Clean Water Act section 401 certification~~
3 ~~program to review activities that require a federal license or permit that may result~~
4 ~~in a discharge to a water or~~

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5 ~~adversely impact a wetland function or value~~ to ensure that the activities

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6 ~~comply with the Vermont Water Quality Standards, as well as with any other~~

7 ~~appropriate requirement of State law, including:~~

8 ~~(A) 10 V.S.A. chapter 37 (wetlands protection and water quality~~

9 ~~management);~~

10 ~~(B) 10 V.S.A. chapter 41 (regulation of streamflow);~~

11 ~~(C) 10 V.S.A. chapter 49A (lakeshore protection standards);~~

12 ~~(D) 10 V.S.A. § 1264 (stormwater management);~~

13 ~~(E) 29 V.S.A. chapter 11 (management of lakes and ponds); and~~

14 ~~(F) The Agency of Natural Resources Rules for Water Withdrawals~~

15 ~~for Snowmaking.~~

1 (2) The Secretary of Natural Resources shall deny any application for
2 certification under Section 401 of the Clean Water Act, ~~unless the proposed~~
42 ~~project is for a project not subject to an exemption adopted by the Secretary by rule,~~
unless the

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53 applicant demonstrates:

64 (A) There is no practicable alternative to the proposed project that
75 would have less adverse impact on waters and wetlands of the State, provided
86 that the alternative does not have other significant adverse human health,
97 safety, or environmental consequences ~~or it is subject to an exemption to this~~
subdivision (h)(2)(A) adopted by rule. An alternative is considered

108 practicable if it is available and capable of being done after taking into
119 consideration cost, existing technology, and logistics in light of overall project

12 purposes. ~~When a proposed project would result in an impact to a wetland, in~~
13 ~~order for the Secretary to make a determination that there is no practicable~~
14 ~~alternative, the applicant shall demonstrate that they have avoided and~~
~~minimized impacts to the wetland to the greatest extent practicable.~~

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1610 (B) The proposed project will not result in the violation of any applicable
water

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1711 quality criteria established in the Vermont Water Quality Standards.

18 (C) The proposed project will not ~~cause or contribute to the~~
2012 ~~degradation of any water or wetland in a manner that would result in the~~
violation of the State's

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2113 antidegradation policy.

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(3) The Secretary may issue a general permit or may develop an application form for an applicant to demonstrate compliance with the requirements of subdivision (h)(2) of this section.

1 Sec. 2. AGENCY OF NATURAL RESOURCES; VERMONT WATER

2 QUALITY STANDARDS; RULEMAKING

3 The Secretary of Natural Resources shall amend the Vermont Water Quality
4 Standards (VWQS) to include the following:

5 (1) An amendment to the Classification of State Waters to clarify that
6 with regard to all Class I and II wetlands, as defined in 10 V.S.A. § 902, the
7 uses to be protected include the functions and values of the wetland as
8 described in Section 5 of the Vermont Wetland Rules.

9 (2) An amendment to the antidegradation policy to clarify that wetlands
10 and their functions and values shall be protected as described by the Vermont
11 Wetland Rules.

12 (3) Any additional provisions that the Secretary of Natural Resources
13 determines are necessary to implement the requirements of 10 V.S.A.
14 § 1253(h), including any exemptions to the requirements of 10 V.S.A.
15 § 1253(h)(2)(A) for projects that are not likely to have significant impacts on
16 water quality or wetland functions or values. [State or municipal road or](#)
17 [highway projects](#) shall
18 be exempt from the requirements of 10 V.S.A. § 1253(h)(2)(A).

17 Sec. 3. RULEMAKING IMPLEMENTATION; TIMING

18 (a) The Secretary of Natural Resources shall file with the Secretary of State
19 under 3 V.S.A. § 838 a copy of the proposed rules required by Sec. 2 of this act
20 within 90 days from the effective date of this act.

1 (b) On or before January 15, 2022, the Secretary of Natural Resources shall
2 submit to the House Committee on Natural Resources, Fish, and Wildlife and
3 the Senate Committee on Natural Resources and Energy a report regarding the
4 status of the rulemaking required by Sec. 2 of this act. The report shall include
5 a draft of the rules.

6 (c) On or before March 1, 2022, the Secretary of Natural Resources shall
7 file with the Secretary of State under 3 V.S.A. § 841 a final proposal of the
8 rules required by Sec. 2 of this act.

9 Sec. 4. EFFECTIVE DATE

9 ~~This Act shall take effect upon passage except Section 1 of this act which shall
take effect upon the final adoption of rules by the Secretary of Natural Resources
required by Sec. 2 of this act. Sections 2 and 3 of this act shall take effect on
passage.~~

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16 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE

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