

1 An act relating to the reclassification of high quality waters

2 Sec. 1. FINDINGS

3 The General Assembly finds that:

4 (1) the federal Clean Water Act requires states to adopt an  
5 antidegradation policy and requirements for implementation of the policy;

6 (2) the Agency of Natural Resources (ANR) has initiated rulemaking for  
7 an Antidegradation Implementation Rule;

8 (3) the ANR Antidegradation Implementation Rule shall ensure that the  
9 level of water quality necessary to support uses of State waters shall be  
10 maintained, and waters shall be managed to minimize risk to existing and  
11 designated uses of State waters;

12 (4) the ANR Antidegradation Implementation Rule shall also clarify  
13 how proposed new discharges to State waters will be reviewed and permitted  
14 by ANR;

15 (5) the ANR Antidegradation Implementation Rule shall require  
16 consideration of cumulative impacts to the receiving water during the  
17 evaluation of any proposed discharge;

18 (6) pursuant to the Antidegradation Implementation Rule, the Secretary  
19 shall require a site-specific Tier 2 analysis through the use of individual  
20 permits to ensure protection of waters that are Class A(1), B(1), or A(2);

1 waters where the Secretary determines water quality data meets or exceeds the  
2 minimum criteria for these classes; or waters for which the Secretary has  
3 received a complete reclassification petition, when proposed activities may  
4 result in a measurable reduction in the physical, chemical, or biological quality  
5 of such waters due to their location, size, and scale;

6 ~~(7) beginning on July 1, 2023, and biannually thereafter, the Secretary~~  
7 ~~shall determine through the evaluation of existing water quality data the waters~~  
8 ~~that meet or exceed the minimum criteria for a higher class for one or more~~  
9 ~~designated uses;~~

10 ~~(8) for waters where the Secretary determines water quality data meets~~  
11 ~~or exceeds the minimum criteria for a higher class for one or more designated~~  
12 ~~uses, or the Secretary has received an administratively and technically~~  
13 ~~complete petition to reclassify waters, any permit issued by the Secretary must~~  
14 ~~ensure the maintenance of water quality necessary to protect that existing use;~~

15 (7)

16 The Secretary shall propose to reclassify waters where water quality data meets

17 The Secretary shall

18 propose to reclassify waters where water quality data meets or exceeds the  
19 minimum criteria for a higher class for one or more designated uses to allow

20 ~~(10) reclassifying state waters for one or more designated uses based on~~  
21 ~~their existing water quality allows~~ for the protection and maintenance of  
22 designated uses of the water supported by the higher water quality;

1 ~~(11) the existing prohibition on indirect discharges from systems with a~~  
2 ~~capacity of more than 1,000 gallons per day in Class A watersheds has no~~  
3 ~~direct water quality benefit given the current permitting criteria for indirect~~  
4 ~~discharges, and can preclude effective water quality remediation projects and~~  
5 ~~discourage public support for reclassification; and~~

6 ~~(12) consequently, the prohibition on indirect discharges of more than~~  
7 ~~1,000 gallons per day within a Class A watershed, should be repealed or~~  
8 ~~clarified to allow activities that comply with the Antidegradation~~  
9 ~~Implementation Rule.~~

10 Sec. 2. 10 V.S.A. § 1259(d) is amended to read:

11 (d) No person shall cause a discharge of wastes into Class A waters  
12 classified as Class A before July 1, 2023, except for on-site disposal of  
13 wastewater from systems with a capacity of 1,000 gallons per day (gpd), or  
14 less, that are either exempt from or comply with the permitting requirements of  
15 chapter 64 of this title, or existing systems, which shall require a permit  
16 according to the provisions of subsection 1263(f) of this title ~~For all other~~  
17 ~~waters, ¶~~The on-site disposal of wastewater from a system with a capacity of  
18 less than 6,500 gallons per day may be permitted within a ~~Class A or Class A~~  
19 or B1 waters provided that ~~the~~ an individual permit is received, including a  
20 cumulative impact analysis, according to the requirements of subsection  
21 1263(f) of this title, Antidegradation Implementation Rule, and the system  
22 complies with the permitting requirements described in Chapter 64 of this title.

1 The on-site disposal of sewage from a system with a capacity of 6,500 gallons  
2 or more per day in Class A or B1 waters shall be prohibited. require an  
3 individual permit according to the requirements of subsection 1263(f) of this  
4 title.

5 Sec. 3. 10 V.S.A. § 1263(f) is amended to read:

6 (f) Existing indirect discharges to Class B2 waters  
7 from on-site disposal of sewage from systems with a capacity of 6,500 gallons  
8 per day or more shall comply with and be subject to the provisions of this  
9 chapter, and shall obtain the required permit, no later than July 1, 1991.

10 Notwithstanding the requirements of subsections 1259(d) and (e) of this title,  
11 the Secretary shall grant a permit for an existing or new indirect discharge to  
12 the waters of the State for on-site disposal of sewage unless they find that the  
13 discharge violates the water quality standards. ~~Existing indirect discharges~~  
14 ~~from on-site sewage disposal systems of less than 6,500-gpd capacity shall not~~  
15 ~~require a permit under this chapter.~~

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16  
17 Sec. 4 [Insert suggested amendments to Title 10, Ch. 64 (engineering  
18 presumption); see separate Word doc.l.

19  
20 Sec. 5 RECLASSIFICATION OF HIGH QUALITY WATERS

21 10 V.S.A. § 1252 is amended to read:

1 (f) During the triennial rulemaking for the Vermont Water Quality Standards,  
2 the Secretary shall reclassify any waters where water quality data meets or  
3 exceeds the minimum criteria for a higher class for one or more designated  
4 uses and have been proposed as candidate waters for reclassification by the  
5 Secretary, or the Secretary has received an administratively and technically  
6 complete petition for reclassification. In the event that triennial rulemaking for  
7 the Vermont Water Quality Standards does not occur, every three years from  
8 the date of the most recent revision to VWQS, the Secretary shall reclassify  
9 any waters where water quality data meets or exceeds the minimum criteria for  
10 a higher class for one or more designated uses and have been proposed as  
11 candidate waters for reclassification by the Secretary, or the Secretary has  
12 received an administratively and technically complete petition for  
13 reclassification.

14  
15 Sec. 6 CLASSIFICATION AND RECLASSIFICATION STATUS REPORT

16 10 V.S.A. § 1253 is amended to read:

17 (e) On or before January 15 of each year, the Secretary shall report to the  
18 House Committee on Environment and Energy and the Senate Committee on  
19 Natural Resources and Energy on the state of very high quality waters (Class A  
20 and B1) including waters where water quality data meets or exceeds the  
21 minimum criteria for a higher class for one or more designated uses and have  
22 been proposed as candidate waters for reclassification or petitioned for

1 reclassification, the effectiveness of legislative changes made concerning  
2 indirect discharge systems and the former 1,000 gpd prohibition on indirect  
3 discharges within Class A waters, the number of wastewater system permits  
4 and permit at-large issued in very high quality waters, and progress made and  
5 difficulties encountered on classifications and reclassifications.

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7 Sec. 7. NON-POINT SOURCE POLLUTION STAKEHOLDER GROUP;  
8 REPORT

9 (a) Creation. The Secretary, in consultation with the Secretary of Agriculture,  
10 Food and Markets, shall convene a Non-point Source Pollution in High Quality  
11 Waters Stakeholder Group to review, investigate, and make recommendations  
12 regarding antidegradation policy as it relates to non-point source pollution in  
13 high quality waters.

14 (b) Duties. The Non-point Source Pollution in High Quality Waters  
15 Stakeholder Group shall:

16 (1) Analyze whether the Required Agricultural Practices for The Agricultural  
17 Nonpoint Source Pollution Control Program (RAPs) and Acceptable  
18 Management Practices for Maintaining Water Quality on Logging Jobs in  
19 Vermont (AMPs) are sufficient to protect Class A and B1 waterways and  
20 waterbodies;

21 (2) Identify whether legislative or administrative rule changes are necessary.

1 (3) Report. Upon the conclusion of the Stakeholder Group's meetings, the  
2 Group shall prepare and submit a written report to the House Committee on  
3 Environment and Energy and Senate Committee Natural Resources and Energy  
4 providing its findings and recommendations on whether the RAPs and AMPs  
5 sufficient to protect Class A and B1 waters.

6 Sec. 8. EFFECTIVE DATES

7 The bill shall take effect on passage.

8 ~~(b) Secs. 2 and 3 (indirect discharge). Sec. 4 (amendments to Ch. 64). Sec.~~  
9 ~~5 (reclassification of high quality waters) shall take effect on the effective date~~  
10 ~~of the Agency of Natural Resources' Antidegradation Implementation Rule.~~