

1 S.146

2 Introduced by Committee on Natural Resources and Energy

3 Date:

4 Subject: Conservation and development; water pollution control; indirect
5 discharges; classification of waters; antidegradation implementation;
6 wastewater systems

7 Statement of purpose of bill as introduced: This bill proposes to clarify how
8 indirect discharges of wastewater in the State are permitted, including
9 compliance with the Vermont Water Quality Standards and the State
10 Antidegradation Implementation Rule.

11 An act relating to the permitting of indirect discharges

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. FINDINGS

14 The General Assembly finds that:

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

17 (2) the Agency of Natural Resources (ANR) has initiated rulemaking for
18 the Antidegradation Implementation Rule;

19 (3) the ANR Antidegradation Implementation Rule shall ensure that the
20 level of water quality necessary to support uses of State waters shall be

1 maintained, and waters shall be managed to minimize risk to existing and
2 designated uses of State waters;

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

6 (5) the ANR Antidegradation Implementation Rule shall require
7 consideration of cumulative impacts to the receiving water during the
8 evaluation of any proposed discharge;

9 (6) pursuant to the ANR Antidegradation Implementation Rule, the
10 Secretary of Natural Resources shall require a site-specific Tier 2 analysis
11 through the use of individual permits to ensure the protection of waters that are
12 Class A(1), B(1), or A(2) when proposed activities may result in a measurable
13 reduction in the physical, chemical, or biological quality of such waters due to
14 their location, size, and scale and provided that the Secretary determines water
15 quality data meets or exceeds the minimum criteria for these classes; or the
16 Secretary has received an administratively and technically complete
17 reclassification petition for such waters; and

18 (7) the Secretary shall propose to reclassify waters where water quality
19 data meets or exceeds the minimum criteria for a higher class for one or more
20 designated uses to allow for the protection and maintenance of designated uses
21 of the water supported by the higher water quality.

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

2 (d) No person shall cause a discharge of wastes into a Class A waters water
3 classified as Class A on or before July 1, 2023, except for on-site disposal of
4 sewage from systems with a capacity of 1,000 gallons per day (gpd), or less,
5 that are either exempt from or comply with the ~~environmental protection rules,~~
6 permitting requirements of chapter 64 of this title or existing systems, which
7 shall require a permit according to the provisions of subsection 1263(f) of this
8 title. For all other waters, the Secretary may permit the on-site disposal of
9 wastewater from a system with a capacity of less than 6,500 gpd, provided that
10 the permit is issued according to the requirements of chapter 64 of this title.
11 The on-site disposal of sewage from a system with the capacity of 6,500
12 gallons or more per day shall require an individual permit issued according to
13 the requirements of subsection 1263(f) of this title.

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

15 (f) ~~Existing indirect~~ Indirect discharges to the waters of the State from on-
16 site disposal of sewage shall comply with and be subject to the provisions of
17 this chapter; and shall obtain the required permit, ~~no later than July 1, 1991.~~
18 Notwithstanding the requirements of subsections 1259(d) and (e) of this title,
19 the Secretary shall grant a permit for an existing or new indirect discharge to
20 the waters of the State for on-site disposal of sewage unless ~~he or she~~ the
21 Secretary finds that the discharge violates the water quality standards. ~~Existing~~

1 ~~indirect discharges from on-site sewage disposal systems of less than 6,500~~
2 ~~gpd capacity shall not require a permit.~~

3 Sec. 4. 10 V.S.A. § 1973(f)(1) is amended to read:

4 (f)(1) The Secretary shall give deference to a certification by a licensed
5 designer with respect to the engineering design or judgment exercised by the
6 designer in order to minimize Agency review of certified designs, except for
7 systems with a design flow of more than 1,000 gallons per day located in the
8 watersheds of Class A or Class B(1) waters. Systems with a design flow of
9 more than 1,000 gallons per day that are located in a Class A or Class B(1)
10 watershed shall be reviewed by the Secretary to determine if there would be a
11 measurable reduction in the chemical, physical, or biological quality of the
12 receiving water as a result of the system and, when required under the Agency
13 of Natural Resources Antidegradation Implementation Rule, the Secretary shall
14 conduct a Tier 2 Analysis that includes a site specific analysis and a
15 cumulative impact analysis, as required by the Vermont Water Quality
16 Standards, to ensure the protection of Class A and Class B(1) waters. Nothing
17 in this section shall limit the responsibility of the licensed designer to comply
18 with all standards and rules, or the authority of the Secretary to review and
19 comment on design aspects of an application or to enforce Agency rules with
20 respect to the design or the design certification.

1 Sec. 5. 10 V.S.A. § 1252 is amended to read:

2 § 1252. CLASSIFICATION OF ~~HIGH QUALITY~~ HIGH-QUALITY
3 WATERS; MIXING ZONES

4 * * *

5 (i) During the triennial rulemaking for the Vermont Water Quality
6 Standards, the Secretary, on the Secretary's own motion or on receipt of an
7 administratively and technically complete petition, shall propose to reclassify
8 any waters where water quality data meets or exceeds the minimum criteria for
9 a higher class for one or more designated uses and that have been proposed as
10 candidate waters for reclassification by the Secretary. In the event that
11 triennial rulemaking for the Vermont Water Quality Standards does not occur
12 every three years from the date of the most recent revision to the Vermont
13 Water Quality Standards, the Secretary, on the Secretary's own motion or on
14 receipt of an administratively and technically complete petition, shall propose
15 to reclassify any waters where water quality data meets or exceeds the
16 minimum criteria for a higher class for one or more designated uses and that
17 have been proposed as candidate waters for reclassification by the Secretary.

18 Sec. 6. 10 V.S.A. § 1253(i) is added to read:

19 (i) Beginning on January 15, 2024, and biennially thereafter, the Secretary
20 shall report to the House Committee on Environment and Energy and the

1 Senate Committee on Natural Resources and Energy on the status of very high-
2 quality waters, Class A and B(1). The report shall include:

3 (1) a listing of the waters where water quality data meets or exceeds the
4 minimum criteria for a higher class for one or more designated uses and that
5 have been proposed as candidate waters for reclassification or petitioned for
6 reclassification;

7 (2) the Secretary's observations about whether the General Assembly's
8 decision to lift the 1,000 gallon per day indirect discharge prohibition in Class
9 A waters actually improved the Secretary's overall ability to reclassify waters;

10 (3) the number of wastewater system permits and other discharge
11 permits issued in very high-quality waters; and

12 (4) progress made and difficulties encountered during reclassification.

13 Sec. 7. NONPOINT SOURCE POLLUTION STAKEHOLDER

14 GROUP; REPORT

15 (a) Creation. The Secretary, in consultation with the Secretary of
16 Agriculture, Food and Markets, shall convene the Nonpoint Source Pollution
17 in Class A and B(1) Waters Stakeholder Group to review, investigate, and
18 make recommendations regarding the State antidegradation policy as it relates
19 to nonpoint source pollution in high-quality waters.

20 (b) Duties. The Nonpoint Source Pollution in in Class A and B(1) Waters
21 Stakeholder Group shall:

1 (1) analyze whether the Required Agricultural Practices (RAPs) and the
2 Acceptable Management Practices for Maintaining Water Quality on Logging
3 Jobs in Vermont (AMPs) are sufficient to protect Class A and B(1) waters; and

4 (2) recommend whether amendments to statute or rule are necessary to
5 improve the regulation of nonpoint source pollution from agricultural and
6 timber harvesting, including:

7 (A) whether or how to apply the Vermont Antidegradation Policy to
8 nonpoint source pollution from agriculture or timber harvesting;

9 (B) whether and how to regulate runoff from subsurface tile drains in
10 a manner consistent with the Vermont Water Quality Standards; and

11 (C) whether or how to improve management of nonpoint source
12 pollution from timber harvesting, including whether to mandate
13 implementation of the AMPs on all timber harvests and whether to require
14 timber harvesters to notify the State of harvest sites prior to initiation of
15 harvest.

16 (c) Report. Upon the conclusion of the Stakeholder Group's meetings, the
17 Stakeholder Group shall prepare and submit a written report on or before
18 January 15, 2024 to the House Committee on Environment and Energy and
19 Senate Committee on Natural Resources and Energy providing its findings and
20 recommendations on whether the RAPs and AMPs are sufficient to protect
21 Class A and B(1) waters.

1 Sec. 8. EFFECTIVE DATE

2 (a) This section and Secs. 1 (findings) and 7 (nonpoint pollution report)
3 shall take effect on passage.

4 (b) Secs. 2–6 (indirect discharge; classification of waters) shall take effect
5 on the effective date of the Agency of Natural Resources Antidegradation
6 Implementation Rule.