

1 H.674

2 Introduced by Representatives Lanpher of Vergennes, Keenan of

3 St. Albans City, Connor of Fairfield, and Ram of Burlington

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; water pollution control; public notice

7 of discharges

8 Statement of purpose of bill as introduced: This bill proposes to require the  
9 operator of a wastewater treatment facility to notify the Secretary of Natural  
10 Resources and local health officers within defined time limits of: combined  
11 sewer overflows; overflows from sanitary sewers and combined sewer  
12 systems; upsets or bypasses around or within the wastewater treatment facility  
13 during dry or wet weather conditions; and discharges of domestic, commercial,  
14 or industrial wastewater from the wastewater treatment facility to separate  
15 storm sewer systems. The Secretary of Natural Resources would be required  
16 to post, within defined time limits, notice of unpermitted discharges to waters  
17 of the State that may pose a threat to human health or the environment. In  
18 addition, the bill proposes to require the Commissioner of Health to issue a  
19 daily press release to Vermont news media regarding whether cyanobacteria  
20 have been identified in any water of the State at a level that could constitute a  
21 public health hazard.

1 An act relating to public notice of wastewater discharges

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

3 ~~Sec. 1. 10 V.S.A. § 1285 is added to read:~~

4 § 1285. NOTIFICATION OF SEWAGE AND WASTEWATER

5 DISCHARGES

6 (a) Definitions. As used in this section:

7 (1) "Collection system" means pipelines or conduits, pumping stations,  
8 force mains, and all other facilities used to collect or conduct sewage or  
9 stormwater, or both sewage and stormwater.

10 (2) "Combined sewer overflow" means a discharge to waters of the  
11 State from a combined sewer system outfall that results from a wet weather  
12 storm event.

13 (3) "Combined sewer system" means a collection system that was  
14 designed to convey sewage and stormwater through the same network of pipes  
15 to a treatment plant.

16 (4) "Dry weather flow" means flow in a sanitary sewer or combined  
17 sewer system during periods of dry weather.

18 (5) "Pollution abatement facility" shall have the same meaning as in  
19 section 1571 of this title.

1 ~~(6) "Sanitary sewer" means a collection system that conveys sewage and~~  
2 ~~groundwater entering the collection system through infiltration to a wastewater~~  
3 ~~treatment plant.~~

4 (7) "Separate storm sewer system" means a collection system that is  
5 designed to discharge stormwater and groundwater entering the collection  
6 system through inflow and infiltration to surface waters.

7 (8) "Sewage" means domestic, commercial, and industrial wastewater  
8 conveyed by a collection system.

9 (9) "Stormwater" means precipitation and snowmelt that does not  
10 infiltrate into soil, including material dissolved or suspended in it.

11 (10) "Wastewater treatment facility" means a pollution abatement  
12 facility, including the treatment plant, collection system, and pump stations,  
13 permitted by the Secretary for the purpose of treating sewage.

14 (b) Notice.

15 (1) The permitted operator of a wastewater treatment facility shall  
16 provide notice to the Secretary of:

17 (A) combined sewer overflows from the wastewater treatment  
18 facility;

19 (B) overflows from sanitary sewers and combined sewer systems that  
20 are part of the wastewater treatment facility during dry weather flows, which  
21 result in a discharge to waters of the State;

1 ~~(C) upsets or bypasses around or within the wastewater treatment~~  
2 facility during dry or wet weather conditions that are due to factors unrelated to  
3 a wet weather storm event and that result in a discharge to waters of the  
4 State; and

5 (D) discharges of domestic, commercial, or industrial wastewater  
6 from the wastewater treatment facility to separate storm sewer systems.

7 (2) An operator of a wastewater treatment facility required to report  
8 under subdivision (1) of this subsection shall report to the Secretary and the  
9 local health officer of the municipality where the facility is located as soon as  
10 possible, but no later than four hours from the detection of an overflow or  
11 discharge, except that if the overflow or discharge is detected between the  
12 hours of 9:00 p.m. and 5:00 a.m., the operator shall provide notice no later than  
13 10:00 a.m. of that morning.

14 (3) The operator shall notify the Secretary through use of the  
15 Department of Environmental Conservation's online event reporting system.  
16 If, for any reason, the online system is not operable, the operator shall notify  
17 the Secretary via telephone or e-mail.

18 (4) A notice required by this section shall include:

19 (A) The specific location of each discharge or overflow, including  
20 the body of water affected. For combined sewer overflows, the specific

1 ~~location of each discharge means each outfall that has discharged during a wet~~  
2 ~~weather storm event.~~

3 (B) Except for discharges under subdivision (1)(D) of this  
4 subsection (b), the date and approximate time the discharge began.

5 (C) The date and approximate time the discharge ended. If the  
6 discharge is still ongoing at the time of reporting, the entity reporting the  
7 discharge shall amend the report with the date and approximate time the  
8 discharge ended within three business days of the discharge ending.

9 (D) Except for discharges under subdivision (1)(D) of this  
10 subsection (b), the approximate total volume of sewage and, if applicable,  
11 stormwater that was released. If the approximate total volume is unknown at  
12 the time of reporting, the entity reporting the discharge shall amend the report  
13 with the approximate total volume within three business days.

14 (E) The cause of the discharge.

15 (F) The person reporting the discharge.

16 (G) Any other information deemed necessary by the Secretary.

17 (c) Notice by the Secretary. Except for discharges posted pursuant to  
18 subdivisions (b)(1)-(3) of this section, the Secretary shall post notice of  
19 unpermitted discharges to waters of the State that may pose a threat to human  
20 health or the environment and that are identified by the Secretary. The  
21 Secretary's notice shall include the information required under subdivision

1 ~~(b)(4) of this section and shall be posted on the Secretary's online event~~  
2 reporting system no later than four hours from the detection of a discharge,  
3 except that if the discharge is detected between the hours of 9:00 p.m. and  
4 5:00 a.m., the Secretary shall post the notice no later than 10:00 a.m. of that  
5 morning.

6 (d) Signage.

7 (1) Each combined sewer overflow outfall shall be marked with a  
8 permanent sign that identifies the outfall and warns of the potential threat to  
9 public health that may be posed by recreating in the waters at the outfall or  
10 downstream of the outfall during or after a wet weather storm event. The  
11 Secretary shall provide each municipality with a combined sewer overflow two  
12 signs for each outfall within the municipality. A municipality shall  
13 periodically inspect and maintain each sign marking a combined sewer  
14 overflow outfall and shall replace a sign if it is destroyed, removed, or no  
15 longer legible.

16 (2)(A) A municipality shall post temporary signs at public access areas  
17 downstream of overflows from sanitary sewers and combined sewer systems  
18 during:

19 (i) dry weather flows;

1 ~~(ii) upsets or bypasses within wastewater treatment facilities~~  
2 during dry or wet weather conditions, which are due to factors unrelated to a  
3 wet weather storm event; and  
4 (iii) discharges of domestic, commercial, or industrial wastewater  
5 to separate storm sewer systems.

6 (B) The signs shall warn of the potential threat to public health that  
7 may be posed by recreating in the waters due to the discharge. The signs shall  
8 remain in place until the discharge has stopped and the local health officer has  
9 determined that the threat to public health has passed.

10 Sec. 2. 10 V.S.A. § 1278(e) is amended to read:

11 ~~(e) Notice of certain discharges. The secretary of natural resources shall~~  
12 ~~post publicly notice of an illegal discharge that may pose a threat to human~~  
13 ~~health or the environment on its website within 24 hours of the agency's~~  
14 ~~receipt of notification of the discharge. [Repealed.]~~

15 Sec. 3. 18 V.S.A. § 1222 is added to read:

16 § 1222. CYANOBACTERIA MONITORING AND NOTIFICATION

17 (a) As used in this section:

18 (1) "Cyanobacteria" means photosynthetic bacteria that have  
19 two photosystems, produce molecular oxygen, and use water as an  
20 electron-donating substrate in photosynthesis, including microcystin, anatoxin,  
21 and cylindrospermopsin.

1 ~~(2) "Waters" shall have the same meaning as used in 10 V.S.A. § 1251.~~

2 (b) On or before January 1, 2017, the Commissioner of Health, after  
3 consultation with the Secretary of Natural Resources, shall establish a program  
4 that coordinates all efforts to monitor the presence of cyanobacteria in the  
5 waters of the State.

6 (c) Beginning on January 1, 2017, the Commissioner of Health shall issue  
7 daily press releases to Vermont news media regarding whether cyanobacteria  
8 have been identified in any water of the State at a level that could constitute a  
9 public health hazard. The Commissioner of Health shall post each press  
10 release to the website of the Department of Health.

11 Sec. 4. EFFECTIVE DATES

12 This act shall take effect on passage, except that Sec. 3 (cyanobacteria  
13 monitoring) shall take effect on July 1, 2016.

*Sec. 1. 10 V.S.A. chapter 47, subchapter 1A is added to read:*

*Subchapter 1A. Notification of Sewage and Wastewater Discharges*

*§ 1295. NOTIFICATION OF SEWAGE AND WASTEWATER*

*DISCHARGES*

*(a) Definitions. Notwithstanding the application of the definitions in*  
*section 1251 to the chapter as a whole, as used in this subchapter:*



(1) “Collection system” means pipelines or conduits, pumping stations, force mains, and all other facilities used to collect or conduct sewage or stormwater, or both sewage and stormwater.

(2) “Combined sewer overflow” means an untreated or partially treated discharge to waters of the State from a combined sewer system outfall that results from a wet weather storm event.

(3) “Combined sewer system” means a collection system that was designed to convey sewage and stormwater through the same network of pipes to a treatment plant.

(4) “Dry weather flow” means flow in a sanitary sewer or combined sewer system during periods of dry weather.

(5) “Sanitary sewer system” means a collection system that conveys sewage and groundwater entering the collection system through inflow and infiltration to a wastewater treatment facility.

(6) “Separate storm sewer system” means a collection system that is designed to discharge stormwater and groundwater entering the collection system through inflow and infiltration to surface waters.

(7) “Sewage” means domestic, commercial, and industrial wastewater conveyed by a collection system.

(8) “Stormwater” means precipitation and snowmelt that does not infiltrate into soil, including material dissolved or suspended in it.

(9) “Untreated discharge” means:

(A) combined sewer overflows from a wastewater treatment facility;

(B) overflows from sanitary sewers and combined sewer systems that are part of a wastewater treatment facility during dry weather flows, which result in a discharge to waters of the State;

(C) upsets or bypasses around or within a wastewater treatment facility during dry or wet weather conditions that are due to factors unrelated to a wet weather storm event and that result in a discharge of sewage that has not been fully treated to waters of the State; and

(D) discharges from a wastewater treatment facility to separate storm sewer systems.

(10) “Wastewater treatment facility” means a treatment plant, collection system, pump station, and attendant facilities permitted by the Secretary for the purpose of treating sewage.

~~(b) Public alert. An operator of a wastewater treatment facility shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the wastewater treatment facility, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location.~~

(b) Public alert. An operator of a wastewater treatment facility or the operator's delegate shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the wastewater treatment facility, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location, except that if the operator or his or her delegate does not have telephone or Internet service at the location where he or she is working to control or stop the untreated discharge, the operator or his or her delegate may delay posting the alert until the time that the untreated discharge is controlled or stopped, provided that the alert shall be posted no later than four hours from discovery of the untreated discharge.

(c) Agency notification.

(1) An operator of a wastewater treatment facility shall within 12 hours from discovery of an untreated discharge from the wastewater treatment facility notify the Secretary and the local health officer of the municipality where the facility is located of the untreated discharge. The operator shall notify the Secretary through use of the Department of Environmental Conservation's online event reporting system. If, for any reason, the online event reporting system is not operable, the operator shall notify the Secretary via telephone or e-mail.

(2) A notification required by this subsection shall include:

(A) The specific location of each untreated discharge, including the body of water affected. For combined sewer overflows, the specific location of each untreated discharge means each outfall that has discharged during a wet weather storm event.

(B) Except for untreated discharges under subdivision (a)(9)(D) of this section, the date and approximate time the untreated discharge began.

(C) The date and approximate time the untreated discharge ended. If the untreated discharge is still ongoing at the time of reporting, the entity reporting the untreated discharge shall amend the report with the date and approximate time the untreated discharge ended within three business days of the untreated discharge ending.

(D) Except for untreated discharges under subdivision (a)(9)(D) of this section, the approximate total volume of sewage and, if applicable, stormwater that was released. If the approximate total volume is unknown at the time of reporting, the entity reporting the untreated discharge shall amend the report with the approximate total volume within three business days.

(E) The cause of the untreated discharge.

(F) The person reporting the untreated discharge.

(G) Any other information deemed necessary by the Secretary.

(d) Notification of additional discharges. In addition to untreated discharges posted pursuant to subsection (c) of this section, the Secretary shall post a notification of other unpermitted discharges to waters of the State that may pose a threat to human health or the environment and that are identified by the Secretary. The Secretary's notification shall include the information required under subdivision (c)(2) of this section and shall be posted on the Secretary's online event reporting system no later than four hours from the discovery of an unpermitted discharge, except that if the unpermitted discharge is discovered between the hours of 9:00 p.m. and 5:00 a.m., the Secretary shall post the notification no later than 10:00 a.m. of that morning. The Secretary's notification shall identify the potential threat to the public health that may be posed by recreating in the waters where the unpermitted discharge occurred.

(e) Signage.

(1) Each combined sewer overflow outfall shall be marked with a permanent sign that identifies the outfall and warns of the potential threat to public health that may be posed by recreating in the waters at the outfall or downstream of the outfall during or after a wet weather storm event. The Secretary shall provide each municipality with a combined sewer overflow two signs for each outfall within the municipality. A municipality shall periodically inspect and maintain each sign marking a combined sewer

overflow outfall and shall replace a sign if it is destroyed, removed, or no longer legible.

(2)(A) A municipality shall, within its jurisdiction or other geographic area specified by the Secretary, post temporary signs at public access areas downstream of:

(i) untreated discharges under subdivisions (a)(9)(B)–(D) of this section; and

(ii) other unpermitted discharges posted by the Secretary under subsection (d) of this section.

(B) The signs shall warn of the potential threat to public health that may be posed by recreating in the waters due to the untreated or unpermitted discharge. The signs shall remain in place for 48 hours after the untreated or unpermitted discharge has stopped.

Sec. 2. 10 V.S.A. § 1278(e) is amended to read:

~~(e) Notice of certain discharges. The secretary of natural resources shall post publicly notice of an illegal discharge that may pose a threat to human health or the environment on its website within 24 hours of the agency's receipt of notification of the discharge. [Repealed.]~~

Sec. 3. 18 V.S.A. § 1222 is added to read:

§ 1222. CYANOBACTERIA MONITORING AND NOTIFICATION

(a) As used in this section:

(1) “Cyanobacteria” means photosynthetic bacteria that have two photosystems, produce molecular oxygen, and use water as an electron-donating substrate in photosynthesis, including ~~microcystin, anatoxin, and cylindrospermopsin~~ microcystis, anabaena, and aphanizomenon.

(2) “Waters” shall have the same meaning as used in 10 V.S.A. § 1251.

(b) The Commissioner of Health, in consultation with the Secretary of Natural Resources, shall coordinate efforts to monitor the presence of cyanobacteria in the waters of the State.

(c) The Department of Health shall maintain a publicly accessible Internet site that provides information concerning the presence of cyanobacteria in areas known to be used for recreation, including swimming or boating. Within one hour of a determination that the presence of cyanobacteria in a recreation area is a public health hazard, the Commissioner of Health shall conduct public outreach describing the area affected and the nature of the public health hazard in the area.

#### *Sec. 4. EFFECTIVE DATES*

This act shall take effect on passage, except that Sec. 3 (cyanobacteria monitoring) shall take effect on July 1, 2016.