

1 Introduced by Committee on Natural Resources and Energy

2 Date:

3 Subject: Conservation and development; water pollution control; indirect
4 discharges; Class A waters; antidegradation implementation;
5 wastewater systems

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

10 An act relating to the permitting of indirect discharges

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

12 Sec. 1. FINDINGS

13 The General Assembly finds that:

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

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

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

17 (7) beginning on July 1, 2023, and biannually thereafter, the Secretary
18 of Natural Resources shall determine through the evaluation of existing water
19 quality data the waters that meet or exceed the minimum criteria for a higher
20 class for one or more designated uses;

1 (8) for waters where the Secretary of Natural Resources determines
2 water quality data meets or exceeds the minimum criteria for a higher class for
3 one or more designated uses, or the Secretary has received an administratively
4 and technically complete petition to reclassify waters, any permit issued by the
5 Secretary of Natural Resources must ensure the maintenance of water quality
6 necessary to protect that existing use;

7 (9) the ANR Antidegradation Implementation Rule further specifies that
8 on or before January 1, 2026, and upon each subsequent triennial rulemaking
9 for the Vermont Water Quality Standards, the Secretary shall propose to
10 reclassify waters where water quality data meets or exceeds the minimum
11 criteria for a higher class for one or more designated uses;

12 (10) reclassifying State waters for one or more designated uses based on
13 their existing water quality allows for the protection and maintenance of
14 designated uses of the water supported by the higher water quality;

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

20 (12) consequently, the prohibition on indirect discharges of more than
21 1,000 gallons per day within a Class A watershed should be repealed or

1 clarified to allow activities that comply with the Antidegradation
2 Implementation Rule.

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

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

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

17 (f) Existing indirect discharges to the waters of the State from on-site
18 disposal of sewage from systems with a capacity of 6,500 gallons per day or
19 more shall comply with and be subject to the provisions of this chapter, and
20 shall obtain the required permit, ~~no~~ not later than July 1, 1991.

21 Notwithstanding the requirements of subsections 1259(d) and (e) of this title,

1 the Secretary shall grant a permit for an existing or new indirect discharge to
2 the waters of the State for on-site disposal of sewage unless ~~he or she~~ the
3 Secretary finds that the discharge violates the water quality standards. Existing
4 indirect discharges from on-site sewage disposal systems of less than 6,500
5 gpd capacity shall not require a permit under this chapter.

6 Sec. 4. EFFECTIVE DATES

7 (a) This section and Sec. 1 (findings) shall take effect on passage.

8 (b) Secs. 2 and 3 (indirect discharge) shall take effect on the effective date
9 of the Agency of Natural Resources' Antidegradation Implementation Rule.