

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 State
9 Antidegradation Implementation Policy.

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 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 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; and

17 (7) the Secretary shall propose to reclassify waters where water quality
18 data meets or exceeds the minimum criteria for a higher class for one or more
19 designated uses to allow for the protection and maintenance of designated uses
20 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 ~~Class A~~ waters
3 classified as Class A before July 1, 2023, except for on-site disposal of sewage
4 from systems with a capacity of 1,000 gallons per day (gpd), or less, that are
5 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. The on-site disposal of wastewater from a system with a capacity of less
9 than 6,500 gallons per day may be permitted within Class A or Class B(1)
10 waters, provided that permit is issued according to the requirements of section
11 1263 of this title, the Agency of Natural Resources' Antidegradation
12 Implementation Rule, and the permitting requirements of chapter 64 of this
13 title. The on-site disposal of sewage from a system with a capacity of 6,500
14 gallons or more per day in a Class A or B(1) water is prohibited except where
15 necessary to address failing systems or where the upgrade of an existing
16 system improves water quality.

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

18 (f) Existing indirect discharges to the waters of the State Class B(2) waters
19 from on-site disposal of sewage from systems with a capacity of 6,500 gallons
20 per day or more shall comply with and be subject to the provisions of this
21 chapter, and shall obtain the required permit, ~~no~~ not later than July 1, 1991.

1 Notwithstanding the requirements of subsections 1259(d) and (e) of this title,
2 the Secretary shall grant a permit for an existing or new indirect discharge to
3 the waters of the State for on-site disposal of sewage unless ~~he or she~~ the
4 Secretary finds that the discharge violates the water quality standards. ~~Existing~~
5 ~~indirect discharges from on-site sewage disposal systems of less than 6,500~~
6 ~~gpd capacity shall not require a permit.~~

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

8 (f)(1) The Secretary shall give deference to a certification by a licensed
9 designer with respect to the engineering design or judgment exercised by the
10 designer in order to minimize Agency review of certified designs, except for
11 systems with a design flow of more than 1,000 gallons per day located in the
12 watersheds of Class A or Class B(1) waters. Systems with a design flow of
13 more than 1,000 gallons per day that are located in a Class A or Class B(1)
14 watershed shall be reviewed by the Secretary to determine if there would be a
15 measurable reduction in the chemical, physical, or biological quality of the
16 receiving water as a result of the system and, when necessary, the Secretary
17 shall conduct a Tier 2 Analysis that includes a site specific analysis and a
18 cumulative impact analysis, as required by Section 29A-105 of the Vermont
19 Water Quality Standards, to ensure the protection of Class A and Class B(1)
20 waters. Nothing in this section shall limit the responsibility of the licensed
21 designer to comply with all standards and rules, or the authority of the

1 Secretary to review and comment on design aspects of an application or to
2 enforce Agency rules with respect to the design or the design certification.

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

4 § 1252. CLASSIFICATION OF HIGH QUALITY WATERS; MIXING
5 ZONES

6 * * *

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

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

2 (i) Beginning on January 15, 2024, and biennially thereafter, the Secretary
3 shall report to the House Committee on Environment and Energy and the
4 Senate Committee on Natural Resources and Energy on the status of very high
5 quality waters, Class A and B(1). The report shall include:

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

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

13 (3) the number of wastewater system permits and other discharge
14 permits issued in very high quality waters; and

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

16 Sec. 7. NON-POINT SOURCE POLLUTION STAKEHOLDER

17 GROUP; REPORT

18 (a) Creation. The Secretary, in consultation with the Secretary of
19 Agriculture, Food and Markets, shall convene a Non-point Source Pollution in
20 Class A and B(1) Waters Stakeholder Group to review, investigate, and make

1 recommendations regarding the State antidegradation policy as it relates to
2 non-point source pollution in high quality waters.

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

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

8 (2) identify whether legislative or administrative rule changes are
9 necessary.

10 (c) Report. Upon the conclusion of the Stakeholder Group’s meetings, the
11 Stakeholder Group shall prepare and submit a written report to the House
12 Committee on Environment and Energy and Senate Committee on Natural
13 Resources and Energy providing its findings and recommendations on whether
14 the RAPs and AMPs are sufficient to protect Class A and B(1) waters.

15 Sec. 8. EFFECTIVE DATE

16 This act shall take effect on passage.