

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 **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 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~~  
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. In a water that is classified as Class A or B(1) after July 1, 2023, the  
9 Secretary may permit the on-site disposal of wastewater from a system with a  
10 capacity of less than 6,500 gpd, provided that the permit is issued according to  
11 the requirements of Vermont Water Quality Standards, the Agency of Natural  
12 Resources Antidegradation Implementation Rule, and the permitting  
13 requirements of chapter 64 of this title. The on-site disposal of sewage from a  
14 system with a capacity of 6,500 gallons or more per day in a Class A or B(1)  
15 water is prohibited except where necessary to address failing systems or where  
16 the upgrade of an existing system improves water quality.

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

18 (f) ~~Existing indirect~~ Indirect discharges to the waters of the State Class  
19 B(2) waters from on-site disposal of sewage from systems with a capacity of  
20 6,500 gpd or more initiated on or before May 1, 2023 shall comply with and be  
21 subject to the provisions of this chapter, and shall obtain the required permit;

1 ~~no later than July 1, 1991 under this section.~~ Notwithstanding the  
2 requirements of subsections 1259(d) and (e) of this title, the Secretary shall  
3 grant a permit for an existing or new indirect discharge to the waters of the  
4 State for on-site disposal of sewage unless ~~he or she~~ the Secretary finds that the  
5 discharge violates the water quality standards. Existing indirect discharges  
6 from on-site sewage disposal systems of less than 6,500 gpd capacity and shall  
7 not require a permit.

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

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

1 in this section shall limit the responsibility of the licensed designer to comply  
2 with all standards and rules, or the authority of the Secretary to review and  
3 comment on design aspects of an application or to enforce Agency rules with  
4 respect to the design or the design certification.

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

6 § 1252. CLASSIFICATION OF ~~HIGH-QUALITY~~ HIGH-QUALITY  
7 WATERS; MIXING ZONES

8 \* \* \*

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

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. NONPOINT 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 Nonpoint 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 nonpoint source pollution in high-quality waters.

3 (b) Duties. The Nonpoint Source Pollution in in Class A and B(1) 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) recommend whether amendments to statute or rule are necessary to  
9 improve the regulation of nonpoint source pollution from agricultural and  
10 timber harvesting, including:

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

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

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

20 (c) Report. Upon the conclusion of the Stakeholder Group’s meetings, the  
21 Stakeholder Group shall prepare and submit a written report on or before

1 January 15, 2024 to the House Committee on Environment and Energy and  
2 Senate Committee on Natural Resources and Energy providing its findings and  
3 recommendations on whether the RAPs and AMPs are sufficient to protect  
4 Class A and B(1) waters.

5 Sec. 8. EFFECTIVE DATE

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

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