

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred  
3 Senate Bill No. 213 entitled “An act relating to the regulation of wetlands,  
4 river corridor development, and dam safety” respectfully reports that it has  
5 considered the same and recommends that the bill be amended by striking out  
6 all after the enacting clause and inserting in lieu thereof the following:

7 \* \* \* Wetlands \* \* \*

8 Sec. 1. 10 V.S.A. § 901 is amended to read:

9 § 901. WATER RESOURCES MANAGEMENT POLICY

10 It is hereby declared to be the policy of the State that:

11 (1) the water resources of the State shall be protected; regulated; and,  
12 where necessary, controlled under authority of the State in the public interest  
13 and to promote the general welfare;

14 (2) the wetlands of the State shall be protected, regulated, and restored  
15 so that Vermont achieves a net gain of wetlands acreage; and

16 (3) regulation and management of the water resources of the State,  
17 including wetlands, should be guided by science, and authorized activities in  
18 water resources and wetlands should have a net environmental benefit to the  
19 State.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Sec. 2. 10 V.S.A. § 902(13) is added to read:

2 (13) “Dam removal” has the same meaning as in section 1090 of this  
3 title.

4 Sec. 3. 10 V.S.A. § 916 is amended to read:

5 § 916. ~~REVISION~~ UPDATE OF VERMONT SIGNIFICANT WETLANDS  
6 INVENTORY MAPS

7 ~~The Secretary shall revise the Vermont significant wetlands inventory maps~~  
8 ~~to reflect wetland determinations issued under section 914 of this title and~~  
9 ~~rulemaking by the panel under section 915 of this title. (a) On or before~~  
10 January 1, 2026, and not less than annually thereafter, the Agency of Natural  
11 Resources shall update the Vermont Significant Wetlands Inventory (VSWI)  
12 maps. The annual updates to the VSWI shall include integration of  
13 georeferenced shapefiles or similar files for all verified delineations performed  
14 within the State and submitted to the Agency of Natural Resources as part of a  
15 permit application, as well as a wetlands determination issued under section  
16 914 of this title and rulemaking conducted pursuant to section 915 of this title.  
17 The VSWI layer shall include integration of any additional town specific  
18 inventories performed by consultants on the Agency’s Wetland Consultant List  
19 if the consultant has presented the map to a municipality or the Agency of  
20 Natural Resources.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1        (b) On or before January 1, 2030, the Secretary of Natural Resources shall  
2        complete High Quality Wetlands Inventory (NWI) Plus level mapping for all  
3        of the tactical basins in the State. The high-quality mapping shall include a  
4        ground truthing component, as recommended by the U.S. Fish and Wildlife  
5        Service (USFWS). Once all tactical basins are mapped, the Agency shall  
6        evaluate the need for tactical basin map updates on a five-year cycle,  
7        simultaneously with updates to the corresponding tactical basin plan. The  
8        Agency shall update the tactical basin map when it determines it is necessary.

9        Sec. 4. 10 V.S.A. §§ 918 and 919 are added to read:

10       § 918. NET GAIN OF WETLANDS; STATE GOAL; RULEMAKING

11       (a) On or before July 1, 2025, the Secretary of Natural Resources shall  
12       amend the Vermont Wetlands Rules pursuant to 3 V.S.A. chapter 25 to clarify  
13       that the goal of wetlands regulation and management in the State is the net gain  
14       of wetlands to be achieved through protection of existing wetlands and  
15       restoration of previously impacted wetlands. As a condition of a permit for  
16       activity in a wetland, the Secretary shall require the net gain of wetlands. This  
17       condition shall not apply to wetland, river, and flood plain restoration projects,  
18       including dam removals.

19       (b) The Vermont Wetlands Rules shall prioritize the protection of existing  
20       intact wetlands from impacts. Where a permitted activity in a wetland will  
21       cause more than 5,000 square feet of adverse effects that cannot be avoided,

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 the Secretary shall mandate that the permit applicant restore, enhance, or create  
2 wetlands or buffers to compensate for the adverse effects on a wetland. The  
3 amount of wetlands to be restored, enhanced, or created shall be calculated, at  
4 a minimum, by determining the acreage or square footage of wetlands  
5 adversely affected by the permitted activity and multiplying the number of  
6 adversely affected acres or square feet by two, to result in ratio of 2:1  
7 restoration to disturbance. Establishment of a buffer zone contiguous to a  
8 wetland shall not substitute for the restoration, enhancement, or creation of  
9 wetlands. Adverse effects on wetland buffers shall also be restored, enhanced,  
10 or created at a ratio of 2:1 restoration to disturbance, as established on a case-  
11 by-case, per project basis.

12 (c) At a minimum, the Wetlands Rules shall be revised to:

13 (1) Require an applicant for a wetland permit to restore and enhance any  
14 loss of more than 5,000 square feet of wetlands caused by the project that is  
15 subject to the permit application. Wetland, river, and floodplain restoration  
16 projects, including dam removal, shall not require a wetland permit under this  
17 rule.

18 (2) Incorporate the net gain rule into existing general permits and into  
19 requirements for permits issued after September 1, 2025.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

- 1           (3) Establish a set of parameters and ratios for the permittee-designed  
2 restored wetlands, at not less than a 2:1 ratio, which shall include, at a  
3 minimum, the following factors:
- 4           (A) the existing level of wetland function at the site prior to  
5 mitigation or restoration of wetlands;
- 6           (B) the amount of wetland and wetland function lost as a result of the  
7 project;
- 8           (C) how the wetland amounts and functions will be restored at the  
9 proposed compensation site;
- 10           (D) the length of time before the compensation site will be fully  
11 functional;
- 12           (E) the risk that the compensation project may not succeed;
- 13           (F) the differences in the location of the adversely affected wetland  
14 and the wetland subject to compensation that affect the services and values  
15 offered; and
- 16           (G) the requirement that permittees conduct five years of  
17 postrestoration monitoring for the restored wetlands, at which time the Agency  
18 can decide if further action is needed.
- 19           (d) When amending the Vermont Wetlands Rules under this section, the  
20 Secretary shall establish a Vermont in-lieu fee (ILF) compensation program for  
21 wetlands impacts that may be authorized as compensation for an adverse effect

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 on a wetland when the permittee cannot achieve restoration. The Secretary  
2 may implement a Vermont ILF compensation program through agreements  
3 with third-party entities such as the U.S. Army Corps of Engineers or  
4 environmental organizations, provided that any ILF monetary compensation  
5 authorized under the rules shall be expended on restoration, reestablishment,  
6 enhancement, or conservation projects within the State at the HUC 8 level of  
7 the adversely affected wetland when practicable.

8 § 919. WETLANDS PROGRAM REPORTS

9 (a) On or before April 30, 2025, and annually thereafter, the Secretary of  
10 Natural Resources shall submit to the House Committee on Environment and  
11 Energy and to the Senate Committee on Natural Resources and Energy a report  
12 on annual losses and gains of significant wetlands in the State. The report shall  
13 include:

14 (1) the location and acreage of Class II wetland and buffer losses  
15 permitted by the Agency in accordance with section 913 of this title, for which  
16 construction of the permitted project has commenced;

17 (2) the acreage of Class II wetlands and buffers gained through permit-  
18 related enhancement and restoration;

19 (3) the number of site visits and technical assistance calls conducted by  
20 the Agency of Natural Resources, the number of permits processed by the  
21 Agency, and any enforcement actions that were taken by the Agency or the

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Office of the Attorney General in the previous year for violations of this  
2 chapter; and

3 (4) an updated mitigation summary of the extent of wetlands restored  
4 on-site compared with compensation performed off-site, in-lieu fees paid, or  
5 conservation.

6 (b) On or before April 30, 2027, and every five years thereafter, the  
7 Agency of Natural Resources shall submit to the House Committee on  
8 Environment and Energy and to the Senate Committee on Natural Resources  
9 and Energy a comprehensive report on the status of wetlands in the State. The  
10 report shall include:

11 (1) an analysis of historical trends of wetlands, including data analyzing  
12 the projects for which wetland permits were issued by county and tactical  
13 basin;

14 (2) the results of each NWI Plus Mapping Project, including net acres  
15 mapped, dominant vegetative composition, connected tributaries, locations of  
16 confirmed ground truthing, if applicable, and any other hydrologic soil or  
17 vegetative observations or trends noted; and

18 (3) relevant updates related to Class I and Class II wetlands to include  
19 additional wetlands identified under these categories, their composition and  
20 general characteristics, potential threats, patterns of use, and other unique  
21 features.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Sec. 5. 10 V.S.A. § 1274(a) is amended to read:

2 (a) Notwithstanding any other provision or procedure set forth in this  
3 chapter, if the Secretary finds that any person has discharged or is discharging  
4 any waste or damaging the ecological functions of wetlands in violation of this  
5 chapter or chapter 37 of this title, or that any person has failed to comply with  
6 any provisions of any order or permit issued in accordance with this chapter or  
7 chapter 37 of this title, the Secretary may bring suit in the Superior Court in  
8 any county where the discharge, damage to wetlands, or noncompliance has  
9 occurred to enjoin the discharge ~~and to~~ obtain compliance, and mandate  
10 restoration of damaged wetlands. The suit shall be brought by the Attorney  
11 General in the name of the State. The court may issue a temporary injunction  
12 or order in any such proceedings and may exercise all the plenary powers  
13 available to it in addition to the power to:

14 (1) Enjoin future discharges.

15 (2) Order the design, construction, installation, or operation of pollution  
16 abatement facilities or alternate waste disposal systems.

17 (3) Order the restoration of damaged wetlands. Wetlands damaged in  
18 violation of chapter 37 of this title may be ordered restored, enhanced, or  
19 created.

20 (4) Order the removal of all wastes discharged and the restoration of  
21 water quality.





Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 areas within municipal designated centers that are suitable for infill and  
2 redevelopment and that will not cause or contribute to increases in fluvial  
3 erosion hazards.

4 (b) Beginning January 1, 2025 and ending January 1, 2027, the Department  
5 of Environmental Conservation shall conduct an education and outreach  
6 program to consult with and collect input from municipalities, businesses,  
7 property owners, farmers, and other members of the public regarding how  
8 State permitting of development in mapped river corridors will be  
9 implemented, including potential restrictions on the use of land within mapped  
10 river corridors. The Department shall develop educational materials for the  
11 public as part of its charge under this section. The Department shall collect  
12 input from the public regarding the permitting of development in mapped river  
13 corridors as proposed by this act. On or before January 15, 2026, the  
14 Department shall submit to the Senate Committee on Natural Resources and  
15 Energy and the House Committee on Environment and Energy a report that  
16 shall include:

17 (1) a summary of the public input it received regarding State permitting  
18 of development in mapped river corridors; and

19 (2) recommendations, based on the public input collected, for changes to  
20 the requirements for State permitting of development in mapped river  
21 corridors.



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (13) “Existing settlement” has the same meaning as in section 6001 of  
2           this title.

3           (14) “Mapped river corridor” means a river corridor drawn and adopted  
4           by the Secretary of Natural Resources as part of the statewide River Corridor  
5           Base Map Layer in accordance with the Flood Hazard Area and River Corridor  
6           Protection Procedure for rivers and streams with a watershed area greater than  
7           two square miles.

8           Sec. 9. 10 V.S.A. § 754 is amended to read:

9           § 754. FLOOD HAZARD AREA AND MAPPED RIVER CORRIDOR

10           RULES; USES EXEMPT FROM MUNICIPAL REGULATION

11           (a) Rulemaking authority.

12           (1) ~~On or before November 1, 2014, the Secretary shall adopt rules~~  
13           ~~pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance~~  
14           ~~and enforcement of permits applicable to:~~

15           ~~(i) uses exempt from municipal regulation that are located within a~~  
16           ~~flood hazard area or river corridor of a municipality that has adopted a flood~~  
17           ~~hazard by law or ordinance under 24 V.S.A. chapter 117; and~~

18           ~~(ii) State owned and operated institutions and facilities that are~~  
19           ~~located within a flood hazard area or river corridor~~ On or before January 1,  
20           2028, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 establish requirements for issuing and enforcing permits for development  
2 within a flood hazard area or a mapped river corridor in the State.

3 \* \* \*

4 (b) Required rulemaking content. The rules shall:

5 (1) set forth the requirements necessary to ensure ~~uses exempt from~~  
6 ~~municipal regulation are~~ development is regulated by the State in order to  
7 comply with the regulatory obligations set forth under the National Flood  
8 Insurance Program;

9 (2) be designed to ensure that the State and municipalities meet  
10 community eligibility requirements for the National Flood Insurance Program;

11 (3) provide for exemptions from permitting or use of general permits for  
12 certain development;

13 (4) establish the requirements and process for a municipality to be  
14 delegated the State’s permitting authority for development in a flood hazard  
15 area or mapped river corridor that is not exempt from municipal regulation  
16 when the municipality has adopted a flood hazard bylaw or ordinance under  
17 24 V.S.A. chapter 117 that has been approved by the Secretary and that meets  
18 or exceeds the requirements established under State rule;

19 (5) set forth a process, in collaboration with the Agency of Commerce  
20 and Community Development and the Vermont Regional Planning  
21 Commissions, for amending the statewide River Corridor Base Map to identify

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 areas within existing settlements suitable for development that will not cause  
2 or contribute to increases in fluvial erosion hazards; and

3 ~~(e)(6) Discretionary rulemaking. The rules required under this section may~~  
4 establish requirements that exceed the requirements of the National Flood  
5 Insurance Program ~~for uses exempt from municipal regulation, including~~  
6 requirements for the maintenance of existing native riparian vegetation,  
7 provided that any rules adopted under this subsection that exceed the minimum  
8 requirements of the National Flood Insurance Program shall be designed to  
9 prevent or limit a risk of harm to life, property, or infrastructure from flooding.

10 ~~(e)(c) General permit. The rules authorized by this section may establish~~  
11 requirements for a general permit to implement the requirements of this  
12 section, including authorization under the general permit to conduct a specified  
13 use exempt from municipal regulation without notifying or reporting to the  
14 Secretary or an agency delegated under subsection ~~(g)(f)~~ of this section. **A**  
15 general permit implementing the requirements of this section shall not be  
16 required to be issued by rule.

17 ~~(e)(d) Consultation with interested parties. Prior to submitting the rules~~  
18 required by this section to the Secretary of State under 3 V.S.A. § 838, the  
19 Secretary shall solicit the recommendations of and consult with affected and  
20 interested persons and entities such as: the Secretary of Commerce and  
21 Community Development; the Secretary of Agriculture, Food and Markets; the

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Secretary of Transportation; the Commissioner of Financial Regulation;  
2 representatives of river protection interests; representatives of fishing and  
3 recreational interests; representatives of the banking industry; representatives  
4 of the agricultural community; representatives of the forest products industry;  
5 the regional planning commissions; municipal interests; and representatives of  
6 municipal associations.

7 ~~(f)~~(e) Permit requirement. A Beginning on July 1, 2028, a person shall not  
8 commence or conduct a use exempt from municipal regulation development in  
9 a flood hazard area or mapped river corridor in a municipality that has adopted  
10 a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or  
11 commence construction of a State-owned and-operated institution or facility  
12 located within a flood hazard area or river corridor, without a permit issued  
13 under the rules required under subsection (a) of this section by the Secretary or  
14 by a State agency delegated permitting authority under subsection ~~(g)~~(f) of this  
15 section. When an application is filed under this section, the Secretary or  
16 delegated State agency shall proceed in accordance with chapter 170 of this  
17 title.

18 ~~(g)~~(f) Delegation.

19 (1) The Secretary may delegate to another State agency the authority to  
20 implement the rules adopted under this section, to issue a permit under  
21 subsection ~~(f)~~(e) of this section, and to enforce the rules and a permit.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (2) A memorandum of understanding shall be entered into between the  
2 Secretary and a delegated State agency for the purpose of specifying  
3 implementation of requirements of this section and the rules adopted under this  
4 section, issuance of a permit or coverage under a general permit under this  
5 section, and enforcement of the rules and permit required by this section.

6           (3) Prior to entering a memorandum of understanding, the Secretary  
7 shall post the proposed memorandum of understanding on its website for 30  
8 days for notice and comment. When the memorandum of understanding is  
9 posted, it shall include a summary of the proposed memorandum; the name,  
10 telephone number, and address of a person able to answer questions and  
11 receive comments on the proposal; and the deadline for receiving comments.

12 A final copy of a memorandum of understanding entered into under this  
13 section shall be sent to the chairs of the House ~~Committees on Energy and~~  
14 ~~Technology and on Natural Resources, Fish, and Wildlife~~ Committee on  
15 Environment and Energy, the Senate Committee on Natural Resources and  
16 Energy, and any other committee that has jurisdiction over an agency that is a  
17 party to the memorandum of understanding.

18           (h)(g) Municipal authority. This section and the rules adopted under it  
19 shall not prevent a municipality from adopting substantive requirements for  
20 development in a flood hazard area bylaw or ordinance under 24 V.S.A.  
21 chapter 117 that are more stringent than the rules required by this section,



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 provided that the bylaw or ordinance shall not apply to uses exempt from  
2 municipal regulation.

3 Sec. 10. 10 V.S.A. § 755 is amended to read:

4 § 755. REQUIRED STATE FLOOD HAZARD AREA STANDARDS;

5 MUNICIPAL EDUCATION; MODEL FLOOD HAZARD AREA

6 BYLAW OR ORDINANCE

7 (a) Required municipal flood hazard area standards.

8 (1) On or before January 1, 2026, the Secretary shall adopt rules  
9 pursuant to 3 V.S.A. chapter that establish a set of flood hazard area standards  
10 that all municipalities enrolled in the National Flood Insurance Program  
11 (NFIP) shall be required to adopt and administer.

12 (2) The rules shall contain flood hazard area standards that exceed the  
13 minimum standards of the NFIP by reducing flood risk to new development  
14 and ensuring new development does not create adverse impacts to adjacent  
15 preexisting development.

16 (3) Any municipality with a municipal flood hazard area bylaw or  
17 ordinance shall update their bylaw or ordinance to incorporate the State Flood  
18 Hazard Area Standards contained in the Rule. Nothing in this section shall  
19 prohibit a municipality from adopting a more protective flood hazard standard  
20 with language and standards approved by the Agency.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (4) Any municipality that participates in the NFIP shall update their  
2 flood hazard standards to comply with the State flood hazard area standards by  
3 January 1, 2028. For any NFIP-participating community that has not updated  
4 the local bylaw or ordinance by January 1, 2028, the State flood hazard area  
5 standards shall become the applicable standards for regulating development in  
6 any flood hazard area.

7           (b) Education and assistance. The Secretary, in consultation with regional  
8 planning commissions, shall provide ongoing education, technical assistance,  
9 and guidance to municipalities regarding the requirements under 24 V.S.A.  
10 chapter 117 necessary for compliance with the ~~National Flood Insurance~~  
11 ~~Program~~ (NFIP), including implementation of the State flood hazard area  
12 standards adopted under subsection (a) of this section.

13           (b)(c) Model flood hazard area bylaw or ordinance. The Secretary shall  
14 create and make available to municipalities a model flood hazard area bylaw or  
15 ordinance for potential adoption by municipalities pursuant to 24 V.S.A.  
16 chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth  
17 the minimum provisions necessary to meet the requirements of the ~~National~~  
18 ~~Flood Insurance Program~~ NFIP, including implementation of the State flood  
19 hazard area standards adopted under subsection (a) of this section. The model  
20 bylaw may include alternatives that exceed the minimum requirements for  
21 compliance with the ~~National Flood Insurance Program~~ NFIP and State flood

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 hazard area standards in order to allow a municipality to elect whether it wants  
2 to adopt the minimum requirement or an alternate requirement that further  
3 minimizes the risk of harm to life, property, and infrastructure from flooding.

4 (e)(d) Assistance to municipalities with no flood hazard area bylaw or  
5 ordinance. The Secretary, in consultation with municipalities, municipal  
6 organizations, and regional planning commissions, shall provide education and  
7 technical assistance to municipalities that lack a flood hazard area bylaw or  
8 ordinance in order to encourage adoption of a flood hazard area bylaw or  
9 ordinance that qualifies the municipality for the ~~National Flood Insurance~~  
10 ~~Program~~ (NFIP).

11 Sec. 11. 24 V.S.A. § 4302(c)(14) is amended to read:

12 (14) To encourage flood resilient communities.

13 (A) New development in identified flood hazard, fluvial erosion, and  
14 river corridor protection areas should be avoided. If new development is to be  
15 built in such areas, it should not exacerbate flooding and fluvial erosion. To  
16 minimize impacts in flood hazard areas, municipalities participating in the  
17 National Flood Insurance Program shall adopt flood hazard area bylaws that  
18 meet or exceed the statewide minimum flood hazard area standards established  
19 by rule by the Agency of Natural Resources.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (B) The protection and restoration of floodplains and upland forested  
2 areas that attenuate and moderate flooding and fluvial erosion should be  
3 encouraged.

4 (C) Flood emergency preparedness and response planning should be  
5 encouraged.

6 Sec. 12. 24 V.S.A. § 4382(a)(12) is amended to read:

7 (12)(A) A flood resilience plan that:

8 (i) identifies flood hazard and fluvial erosion hazard areas, based  
9 on river corridor maps provided by the Secretary of Natural Resources  
10 pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and  
11 designates those areas to be protected, including floodplains, river corridors,  
12 land adjacent to streams, wetlands, and upland forests, to reduce the risk of  
13 flood damage to infrastructure and improved property; and

14 (ii) recommends policies and strategies to protect the areas  
15 identified and designated under subdivision (12)(A)(i) of this subsection and to  
16 mitigate risks to public safety, critical infrastructure, historic structures, and  
17 municipal investments. These strategies include adoption and implementation  
18 of the State flood hazard area standards.

19 (B) A flood resilience plan may reference an existing local hazard  
20 mitigation plan approved under 44 C.F.R. § 201.6.

21 Sec. 13. 24 V.S.A. § 4424 is amended to read:

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 § 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS;

2 FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING

3 BYLAWS

4 (a) Bylaws; flood and other hazard areas; river corridor protection. Any  
5 municipality may adopt freestanding bylaws under this chapter to address  
6 particular hazard areas in conformance with the municipal plan, the State flood  
7 hazard area standards or, for the purpose of adoption of a flood hazard area  
8 bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such  
9 freestanding bylaws may include the following, which may also be part of  
10 zoning or unified development bylaws:

11 (1) Bylaws to regulate development and use along shorelands.

12 (2) Bylaws to regulate development and use in flood areas, river  
13 corridor protection areas, or other hazard areas. The following shall apply if  
14 flood or other hazard area bylaws are enacted:

15 (A) Purposes.

16 (i) To minimize and prevent the loss of life and property, the  
17 disruption of commerce, the impairment of the tax base, and the extraordinary  
18 public expenditures and demands on public service that result from flooding,  
19 landslides, erosion hazards, earthquakes, and other natural or human-made  
20 hazards.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (ii) To ensure that the design and construction of development in  
2 flood, river corridor protection, and other hazard areas are accomplished in a  
3 manner that minimizes or eliminates the potential for flood and loss or damage  
4 to life and property and ensures new development will not adversely affect  
5 existing development in a flood hazard area or that minimizes the potential for  
6 fluvial erosion and loss or damage to life and property in a river corridor  
7 protection area.

8 (iii) To manage all flood hazard areas designated pursuant to 10  
9 V.S.A. § 753.

10 (iv) To make the State and municipalities eligible for federal flood  
11 insurance and other federal disaster recovery and hazard mitigation funds as  
12 may be available.

13 (B) Contents of bylaws. Except as provided in subsection (c) of this  
14 section, flood, river corridor protection area, and other hazard area bylaws  
15 may:

16 (i) Contain standards and criteria that prohibit the placement of  
17 ~~damaging obstructions or structures, the use and storage of hazardous or~~  
18 ~~radioactive materials, and practices that are known to further exacerbate~~  
19 ~~hazardous or unstable natural conditions~~ Shall require compliance with the  
20 State flood hazard area standards established by rule pursuant to 10 V.S.A. §

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 755(c) and meet all additional requirements under the National Flood

2 Insurance Program as set forth in 44 CFR 60.3.

3 (ii) Require flood, fluvial erosion, and hazard protection through  
4 elevation, floodproofing, disaster preparedness, hazard mitigation, relocation,  
5 or other techniques.

6 (iii) Require adequate provisions for flood drainage and other  
7 emergency measures.

8 (iv) Require provision of adequate and disaster resistant water and  
9 wastewater facilities.

10 (v) Establish other restrictions to promote the sound management  
11 and use of designated flood, river corridor protection, and other hazard areas.

12 (vi) Regulate May regulate all land development in a flood hazard  
13 area, river corridor protection area, or other hazard area, except for  
14 development that is regulated under 10 V.S.A. § 754.

15 (C) Effect on zoning bylaws. Flood or other hazard area bylaws may  
16 alter the uses otherwise permitted, prohibited, or conditional in a flood or other  
17 hazard area under a bylaw, as well as the applicability of other provisions of  
18 that bylaw. Where a flood hazard bylaw, a hazard area bylaw, or both apply  
19 along with any other bylaw, compliance with the flood or other hazard area  
20 bylaw shall be prerequisite to the granting of a zoning permit. Where a flood  
21 hazard area bylaw or a hazard area bylaw but not a zoning bylaw applies, the

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 flood hazard and other hazard area bylaw shall be administered in the same  
2 manner as are zoning bylaws, and a flood hazard area or hazard area permit  
3 shall be required for land development covered under the bylaw.

4 (D)(i) Mandatory provisions. Except as provided in subsection (c) of  
5 this section, all flood and other hazard area bylaws shall provide that no permit  
6 for new construction or substantial improvement shall be granted for a flood or  
7 other hazard area until after both the following:

8 (I) A copy of the application is mailed or delivered by the  
9 administrative officer or by the appropriate municipal panel to the Agency of  
10 Natural Resources or its designee, which may be done electronically, provided  
11 the sender has proof of receipt.

12 (II) Either 30 days have elapsed following the mailing or the  
13 Agency or its designee delivers comments on the application.

14 (ii) The Agency of Natural Resources may delegate to a qualified  
15 representative of a municipality with a flood hazard area bylaw or ordinance or  
16 to a qualified representative for a regional planning commission the Agency's  
17 authority under this subdivision (a)(2)(D) to review and provide technical  
18 comments on a proposed permit for new construction or substantial  
19 improvement in a flood hazard area. Comments provided by a representative  
20 delegated under this subdivision (a)(2)(D) shall not be binding on a  
21 municipality.



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (b) Ordinances. A municipality may adopt a flood hazard area, river  
2 corridor protection area, or other hazard area regulation that meets the  
3 requirements of this section by ordinance under subdivision 2291(25) of this  
4 title.

5 \* \* \*

6 Sec. 14. STUDY COMMITTEE ON STATE ADMINISTRATION OF THE  
7 NATIONAL FLOOD INSURANCE PROGRAM

8 (a) Creation. There is created the Study Committee on State  
9 Administration of the National Flood Insurance Program to review and  
10 recommend how to reduce vulnerability to inundation flooding, including how  
11 and to what scale to shift responsibility for the administration and enforcement  
12 of the National Flood Insurance Program from individual municipalities to the  
13 State Department of Environmental Conservation, [and recommendations for a  
14 state minimum flood hazard area standard, which must meet or exceed the  
15 National Flood Insurance Program minimum standards.]

16 (b) Membership. The Study Committee on State Administration of the  
17 National Flood Insurance Program shall be composed of the following  
18 members:

19 (1) one current member of the House of Representatives, appointed by  
20 the Speaker of the House;

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (2) one current member of the Senate, appointed by the Committee on  
2           Committees;

3           (3) two members of the Department of Environmental Conservation  
4           Rivers Program, appointed by the Governor;

5           (4) two members of Vermont’s Regional Planning Commissions,  
6           appointed by the Vermont Association of Planning and Development  
7           Agencies; and

8           (5) one member to represent Vermont municipalities, appointed by the  
9           Committee on Committees.

10          (c) Powers and duties. The Study Committee on State Administration of  
11          the National Flood Insurance Program shall:

12           (1) summarize the existing responsibilities of individual municipalities  
13           that are enrolled in the National Flood Insurance Program;

14           (2) assess the ability of individual municipalities enrolled in the  
15           National Flood Insurance Program to comply with the program’s minimum  
16           standards, identifying the specific barriers to enrollment and compliance;

17           (3) assess the feasibility of the Department of Environmental  
18           Conservation Rivers Program to take on the administrative burden of the  
19           National Flood Insurance Program, including an assessment of the various  
20           scales with which this could occur;

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (4) assess the feasibility of creating a state flood hazard area minimum  
2 standard;

3           (5) an estimate of the staffing needs to effectively administer the  
4 National Flood Insurance Program for Vermont’s municipalities; and

5           (6) a recommendation for how to phase in a proposed state-administered  
6 National Flood Insurance Program.

7           (7) propose to the General Assembly funding sources to support all  
8 potential administrative costs for a proposed state-administered National Flood  
9 Insurance Program, including the permanent full-time classified staff positions  
10 in the Department of Environmental Conservation’s Rivers Program needed to  
11 establish a flood hazard area permitting program and a permitting fee for  
12 applications to the Department of Environmental Conservation’s Rivers  
13 Program and other potential funding sources.

14           (d) Assistance. For purposes of scheduling meetings and administrative  
15 support, the Study Committee shall have the assistance of the Office of  
16 Legislative Operations. For purposes of providing legal assistance and drafting  
17 of legislation, the Study Committee shall have the assistance of the Office of  
18 Legislative Counsel. For the purpose of providing fiscal assistance, the Study  
19 Committee shall have the assistance of the Joint Fiscal Office.

20           (e) Report. On or before August 15, 2025 the Study Committee shall  
21 submit a written report to the General Assembly with its findings and any

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 recommendations for legislative action. Any recommendation for legislative  
2 action shall be as draft legislation.

3 (f) Meetings.

4 (1) The Office of Legislative Counsel shall call the first meeting of the  
5 Study Committee.

6 (2) The Committee shall select a chair from among its members at the  
7 first meeting.

8 (3) A majority of the membership of the Study Committee shall  
9 constitute a quorum.

10 (4) The Study Committee shall cease to exist on December 31, 2025.

11 (g) Compensation and reimbursement.

12 (1) For attendance at meetings during adjournment of the General  
13 Assembly, a legislative member of the Study Committee shall be entitled to per  
14 diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23  
15 for not more than eight meetings. These payments shall be made from monies  
16 appropriated to the General Assembly.

17 (2) Other members of the Study Committee shall be entitled to per diem  
18 compensation and reimbursement of expenses as permitted under 32 V.S.A. §  
19 1010 for not more than eight meetings. These payments shall be made from  
20 monies appropriated to the General Assembly.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Sec. 15. TRANSITION; IMPLEMENTATION; APPROPRIATIONS;  
2 POSITIONS

3 (a) The Secretary of Natural Resources shall initiate rulemaking, including  
4 pre-rulemaking, for the rules required in Sec. 9 of this act, 10 V.S.A. § 754, on  
5 or before January 1, 2026. The effective date of the rules shall be July 1, 2026.

6 (b) Prior to the effective date of the rules required in Sec. 9 of this act,  
7 10 V.S.A. § 754, the Secretary of Natural Resources shall continue to  
8 implement the Vermont Flood Hazard Area and River Corridor Rule for  
9 development that is exempt from municipal regulation.

10 (c) The Secretary of Natural Resources shall not require a permit under  
11 10 V.S.A. § 754 for development in a flood hazard area or mapped river  
12 corridor for development that has the same meaning as “development” under  
13 44 C.F.R. § 59.1 for activities for which:

14 (1) all necessary local, State, or federal permits have been obtained prior  
15 to July 1, 2028 and the permit holder takes no subsequent act that would  
16 require a permit or registration under 10 V.S.A. chapter 32; or

17 (2) a complete application for all applicable local, State, and federal  
18 permits has been submitted on or before July 1, 2028, provided that the  
19 applicant does not subsequently file an application for a permit amendment  
20 that would require a permit under 10 V.S.A. chapter 32 and that substantial  
21 construction of the impervious surface or cleared area commences within two

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 years following the date on which all applicable local, State, and federal  
2 permits become final.

3 (d) In addition to other funds appropriated to the Agency of Natural  
4 Resources in fiscal year 2025, the amount of \$250,000.00 shall be appropriated  
5 from the General Fund to fund two new positions to adopt the State flood  
6 hazard area standards required under Sec. 10 of this act and to assist  
7 municipalities in the adoption of the State Flood hazard Areas Standards.

8 \* \* \* Dam Safety \* \* \*

9 Sec. 16. 10 V.S.A. chapter 43 is amended to read:

10 CHAPTER 43. DAMS

11 § 1079. PURPOSE

12 It is the purpose of this chapter to protect public safety and provide for the  
13 public good through the inventory, inspection, and evaluation of dams in the  
14 State.

15 § 1080. DEFINITIONS

16 As used in this chapter:

17 (1) “Department” means the Department of Environmental  
18 Conservation.

19 \* \* \*

20 (4) “Engineer” means a professional engineer licensed under Title 26  
21 who has experience in the design and investigation of dams.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

\* \* \*

(6)(A) “Dam” means any artificial barrier, including its appurtenant works, that is capable of impounding water, other liquids, or accumulated sediments.

(B) “Dam” includes an artificial barrier that meets all of the following:

(i) previously was capable of impounding water, other liquids, or accumulated sediments;

(ii) was partially breached; and

(iii) has not been properly removed or mitigated.

(C) “Dam” ~~shall~~ does not mean:

(i) barriers or structures created by beaver or any other wild animal as that term is defined in section 4001 of this title;

(ii) transportation infrastructure that has no normal water storage capacity and that impounds water only during storm events;

(iii) an artificial barrier at a stormwater management structure that is regulated by the Agency of Natural Resources under chapter 47 of this title;

(iv) an underground or elevated tank to store water otherwise regulated by the Agency of Natural Resources;

(v) an agricultural waste storage facility regulated by the Agency of Agriculture, Food and Markets under 6 V.S.A. chapter 215; or

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (vi) any other structure identified by the Department by rule.

2 (7) “Federal dam” means:

3 (A) a dam owned by the United States; or

4 (B) a dam subject to a Federal Energy Regulatory Commission  
5 license or exemption.

6 (8) “Intake structure” means a dam that is constructed and operated for  
7 the primary purposes of minimally impounding water for the measurement and  
8 withdrawal of streamflow to ensure use of the withdrawn water for  
9 snowmaking, potable water, irrigation, or other purposes approved by the  
10 Department.

11 (9) “Nonfederal dam” means a dam that is not a federal dam.

12 (10) “Harm” means any personal injury or property damage.

13 (11) “Dam removal” means a river restoration and resilience project that  
14 removes all or part of a dam.

15 § 1081. JURISDICTION OF DEPARTMENT AND PUBLIC UTILITY  
16 COMMISSION

17 (a) Powers and duties. Unless otherwise provided, the powers and duties  
18 authorized by this chapter shall be exercised by the Department, ~~except that the~~  
19 ~~Public Utility Commission shall exercise those powers and duties over~~  
20 ~~nonfederal dams and projects that relate to or are incident to the generation of~~  
21 ~~electric energy for public use or as a part of a public utility system. Nonfederal~~



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 ~~dams at which the generation of electric energy is subject to licensing~~  
2 ~~jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1,~~  
3 ~~shall not be under the jurisdiction of the Public Utility Commission of~~  
4 Environmental Conservation.

5 (b) Transfer of jurisdiction. ~~Jurisdiction over a nonfederal dam is~~  
6 ~~transferred from the Department to the Public Utility Commission when the~~  
7 ~~Public Utility Commission receives an application for a certificate of public~~  
8 ~~good for electricity generation at that dam. Jurisdiction over a federal dam is~~  
9 ~~transferred to the Department when the license or exemption for a federal dam~~  
10 ~~expires or is otherwise lost; when a certificate of public good is revoked or~~  
11 ~~otherwise lost; or when the Public Utility Commission denies an application~~  
12 ~~for a certificate of public good.~~

13 (c) ~~Transfer of records. Upon transfer of jurisdiction as set forth in~~  
14 ~~subsection (b) of this section and upon written request, the State agency having~~  
15 ~~former jurisdiction over a dam shall transfer copies of all records pertaining to~~  
16 ~~the dam to the agency acquiring jurisdiction.~~

17 § 1082. AUTHORIZATION

18 (a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or  
19 otherwise alter any nonfederal dam, pond, or impoundment or other structure  
20 that is or will be capable of impounding more than 500,000 cubic feet of water  
21 or other liquid after construction or alteration, or remove, breach, or otherwise

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1       lessen the capacity of an existing nonfederal dam that is or was capable of  
2       impounding more than 500,000 cubic feet within or along the borders of this  
3       State where land in this State is proposed to be overflowed, or at the outlet of  
4       any body of water within this State, unless authorized by the ~~State agency~~  
5       ~~having jurisdiction so to do~~ Department, provided that an application for  
6       activities that require authorization under 30 V.S.A. § 248 also shall be  
7       approved by the Public Utility Commission. However, in the matter of flood  
8       control projects where cooperation with the federal government is provided for  
9       by the provisions of section 1100 of this title, that section shall control.

10       (b) For the purposes of this chapter, the volume a dam or other structure is  
11       capable of impounding is the volume of water or other liquid, including any  
12       accumulated sediments, controlled by the structure with the water or liquid  
13       level at the top of the lowest nonoverflow part of the structure.

14       (c) An intake structure in existence on July 1, 2018 that continues to  
15       operate in accordance with a valid Department permit or approval that contains  
16       requirements for inspection and maintenance subject to section 1105 of this  
17       title shall have a rebuttable presumption of compliance with the requirements  
18       of this chapter and rules adopted under this chapter, provided that no  
19       presumption of compliance shall apply if one or both of the following occur on  
20       or after July 1, 2018:

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (1) the owner or operator of the intake takes an action that requires  
2 authorization under this section; or

3 (2) the Department issues an order under section 1095 of this title  
4 directing reconstruction, repair, removal, breaching, draining, or other action it  
5 considers necessary to improve the safety of the dam.

6 § 1083. APPLICATION

7 (a) Any person who proposes to undertake an action subject to regulation  
8 pursuant to section 1082 of this title shall apply in writing to the ~~State agency~~  
9 ~~having jurisdiction~~ Department. The application shall set forth:

10 (1) the location; the height, length, and other dimensions; and any  
11 proposed changes to any existing dam;

12 (2) the approximate area to be overflowed and the approximate number  
13 of or any change in the number of cubic feet of water to be impounded;

14 (3) the plans and specifications to be followed in the construction,  
15 remodeling, reconstruction, altering, lowering, raising, removal, breaching, or  
16 adding to;

17 (4) any change in operation and maintenance procedures; and

18 (5) other information that the ~~State agency having jurisdiction~~  
19 Department considers necessary to review the application.

20 (b) The plans and specifications shall be prepared under the supervision of  
21 an engineer.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

2 The Commissioner of Fish and Wildlife shall investigate the potential  
3 effects on fish and wildlife habitats of any proposal subject to section 1082 of  
4 this title and shall certify the results to the ~~State agency having jurisdiction~~  
5 Department prior to any hearing or meeting relating to the determination of  
6 public good and public safety.

7 § 1085. NOTICE OF APPLICATION

8 Upon receipt of the application required by section 1082 of this title, the  
9 ~~State agency having jurisdiction~~ Department shall give notice to the legislative  
10 body of each municipality in which the dam is located and to all interested  
11 persons. The Department shall provide notice of and an opportunity for public  
12 comment in accordance with chapter 170 of this title. The purpose of the  
13 public and comment under chapter 170 of this title is to determine whether the  
14 project serves the public good as defined in section 1086 of this title and  
15 provides adequately for the public safety.

16 ~~(1) The Department shall proceed in accordance with chapter 170 of this~~  
17 ~~title.~~

18 ~~(2) For any project subject to its jurisdiction under this chapter, the~~  
19 ~~Public Utility Commission shall hold a hearing on the application. The~~  
20 ~~purpose of the hearing shall be to determine whether the project serves the~~  
21 ~~public good as defined in section 1086 of this title and provides adequately for~~

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 ~~the public safety. The hearing shall be held in a municipality in the vicinity of~~  
2 ~~the proposed project and may be consolidated with other hearings, including~~  
3 ~~hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be~~  
4 ~~given at least 10 days before the hearing to interested persons by posting in the~~  
5 ~~municipal offices of the towns in which the project will be completed and by~~  
6 ~~publishing in a local newspaper.~~

7 § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

8 (a) “Public good” means the greatest benefit of the people of the State. In  
9 determining whether the public good is served, the ~~State agency having~~  
10 ~~jurisdiction~~ Department shall give due consideration to, among other things,  
11 the effect the proposed project will have on:

12 (1) the quantity, kind, and extent of cultivated agricultural land that may  
13 be rendered unfit for use by or enhanced by the project, including both the  
14 immediate and long-range agricultural land use impacts;

15 (2) scenic and recreational values;

16 (3) fish and wildlife;

17 (4) forests and forest programs;

18 (5) [Repealed.]

19 (6) the existing uses of the waters by the public for boating, fishing,  
20 swimming, and other recreational uses;

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (7) the creation of any hazard to navigation, fishing, swimming, or other  
2 public uses;

3           (8) the need for cutting clean and removal of all timber or tree growth  
4 from all or part of the flowage area;

5           (9) the creation of any public benefits;

6           (10) attainment of the Vermont water quality standards;

7           (11) any applicable State, regional, or municipal plans;

8           (12) municipal grand lists and revenues; and

9           (13) public safety; and

10           ~~(14)~~ in the case of the proposed removal of a dam that formerly related  
11 to or was incident to the generation of electric energy, but that was not subject  
12 to a memorandum of understanding dated prior to January 1, 2006 relating to  
13 its removal, the potential for and value of future power production.

14           (b) If the ~~State agency having jurisdiction~~ Department finds that the project  
15 proposed under section 1082 of this title will serve the public good, and, in  
16 case of any waters designated by the Secretary as outstanding resource waters,  
17 will preserve or enhance the values and activities sought to be protected by  
18 designation, the agency shall issue its order approving the application. The  
19 order shall include conditions for attainment of water quality standards, as  
20 determined by the Agency of Natural Resources, and such other conditions as  
21 the ~~agency having jurisdiction~~ Department considers necessary to protect any

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 element of the public good listed in subsection (a) of this section. Otherwise it  
2 shall issue its order disapproving the application.

3 (c) The ~~State agency having jurisdiction~~ Department shall provide the  
4 applicant and interested persons with copies of its order.

5 (d) In the case of a proposed removal of a dam that is under the jurisdiction  
6 of the Department and that formerly related to or was incident to the generation  
7 of electric energy but that was not subject to a memorandum of understanding  
8 dated before January 1, 2006 relating to its removal, the Department shall  
9 consult with the Department of Public Service regarding the potential for and  
10 value of future power production at the site.

#### 11 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

12 For any proposal subject to authorization under section 1082 of this title, the  
13 ~~State agency having jurisdiction~~ Department shall ~~employ~~ require an engineer  
14 to investigate the property, review the plans and specifications, and make  
15 additional investigations as the ~~State agency having jurisdiction~~ Department  
16 considers necessary to ensure that the project adequately provides for the  
17 public safety. The engineer conducting an investigation under this section  
18 shall be an employee of the Department or shall be operating under the  
19 supervision of the Department as an independent consultant. The engineer  
20 shall report ~~his or her~~ the engineer's findings to the ~~State agency having~~  
21 ~~jurisdiction~~ Department.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 § 1089. EMPLOYMENT OF ENGINEER

2 ~~With the approval of the Governor, the State agency having jurisdiction~~ The  
3 Department may ~~employ~~ require an engineer to investigate the property,  
4 review the plans and specifications, and make such additional investigation as  
5 the ~~State agency~~ Department shall deem necessary, ~~and such~~. The engineer  
6 conducting an investigation under this section shall be an employee of the  
7 Department or shall be operating under the supervision of the Department as  
8 an independent consultant. The engineer shall report to the ~~State agency his or~~  
9 ~~her~~ Department the engineer's findings in respect thereto ~~and the Department~~  
10 shall review and approve the report or request additional information.

11 § 1090. CONSTRUCTION SUPERVISION

12 The construction, alteration, or other action authorized in section 1086 of  
13 this title shall be supervised by an engineer employed by the applicant. Upon  
14 completion of the authorized project, the engineer shall certify to the ~~agency~~  
15 ~~having jurisdiction~~ Department that the project has been completed in  
16 conformance with the approved plans and specifications.

17 § 1091. LIABILITY FOR DAM BREACH

18 (a) The person owning legal title to a dam shall be responsible and liable  
19 for damage to property of others or injury to persons, including loss of life  
20 resulting from the operation, failure of or mis-operation of a dam.



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           **(b) Compliance with the requirements of this chapter or rules adopted**  
2           **under this chapter by a person owning legal title to a dam shall not relieve from**  
3           **or lessen the responsibility of the person owning legal title to the dam from any**  
4           **damages to persons or property caused by failure of the dam, nor shall the**  
5           **Department of Environmental Conservation be held liable by reason of any**  
6           **inspections, technical documents, or permits issued for the dam.**

7           § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

8           (a) On receipt of a petition signed by ~~no~~ not fewer than ~~ten~~ 10 interested  
9           persons or the legislative body of a municipality, the ~~State agency having~~  
10          ~~jurisdiction~~ Department shall, or upon its own motion it may, institute  
11          investigations by an engineer as described in section 1087 of this title  
12          regarding the safety of any existing nonfederal dam or portion of the dam of  
13          any size. **The agency Department may fix a time and place for hearing and**  
14          **shall give notice in the manner it directs to all interested persons. The engineer**  
15          **shall present his or her findings and recommendations at the hearing. After the**  
16          **hearing, if the Department** finds that the nonfederal dam or portion of the dam  
17          as maintained or operated is unsafe or is a menace to people or property above  
18          or below the dam, it shall issue an order directing reconstruction, repair,  
19          removal, breaching, draining, or other action it considers necessary to improve  
20          the safety of the dam sufficiently to protect life and property as required by the  
21          ~~State agency having jurisdiction~~ Department.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (b) If, upon the expiration of ~~such~~ a date as may be ordered, the person  
2 owning legal title to ~~such~~ the dam or the owner of the land on which the dam is  
3 located has not complied with the order directing the reconstruction, repair,  
4 breaching, removal, draining, or other action of ~~such~~ the unsafe dam, the State  
5 agency having jurisdiction Department may petition the Superior Court in the  
6 county in which the dam is located to enforce its order or exercise the right of  
7 eminent domain to acquire the rights that may be necessary to effectuate a  
8 remedy as the public safety or public good may require. If the order has been  
9 appealed, the court may prohibit the exercise of eminent domain by the State  
10 agency having jurisdiction Department pending disposition of the appeal.

11 (c) If, upon completion of the investigation described in subsection (a) of  
12 this section, the ~~State agency having jurisdiction~~ Department considers the dam  
13 to present an imminent threat to human life or property, it shall take whatever  
14 action it considers necessary to protect life and property and subsequently shall  
15 conduct the hearing described in subsection (a) of this section.

16 § 1099. APPEALS

17 ~~(a)~~ Appeals of any act or decision of the Department under this chapter  
18 shall be made in accordance with chapter 220 of this title.

19 ~~(b)~~ ~~Appeals from actions or orders of the Public Utility Commission may~~  
20 ~~be taken in the Supreme Court in accord with 30 V.S.A. § 12.~~

21 \* \* \*

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 § 1105. INSPECTION OF DAMS

2 (a) Inspection; schedule. All nonfederal dams in the State shall be  
3 inspected according to a schedule adopted by rule by the ~~State agency having~~  
4 ~~jurisdiction over the dam~~ Department.

5 (b) Dam inspection. A nonfederal dam in the State shall be inspected under  
6 one or both of the following methods:

7 (1) The ~~State agency having jurisdiction over a dam~~ Department may  
8 employ an engineer to make periodic inspections of nonfederal dams in the  
9 State to determine their condition and the extent, if any, to which they pose a  
10 possible or probable threat to life and property.

11 (2) The ~~State agency having jurisdiction~~ Department shall adopt rules  
12 pursuant to 3 V.S.A. chapter 25 to require an adequate level of inspection by  
13 an independent engineer.

14 (c) Dam safety reports. If a dam inspection report is completed by the  
15 ~~State agency having jurisdiction, the agency~~ Department, the Department shall  
16 provide the person owning legal title to the dam or the owner of the land on  
17 which the dam is located with a copy of the inspection report and shall make  
18 all inspection reports available on the Department website for public review.  
19 For dams owned by the State, the Department shall provide the inspection  
20 report to the designated point of contact for the dam at the State entity owning

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 the dam and make the information available to the public on the Department  
2 website.

3 (d) Notice of unsafe State dam. Notwithstanding the timing for submission  
4 of a dam safety report under subsection (c) of this section, if the Department  
5 determines that a State dam is unsafe and in need of repair or removal, the  
6 Department shall immediately notify the designated point of contact of the  
7 State entity that owns the dam and make this information available to the  
8 public on the Department website.

9 § 1106. UNSAFE DAM SAFETY REVOLVING LOAN FUND

10 (a) There is hereby established a special fund to be known as the Vermont  
11 Unsafe Dam Safety Revolving Loan Fund that shall be used to provide grants  
12 and loans to municipalities, nonprofit entities, and private individuals low-or  
13 zero-interest loans, including subsidized loans as established under subsection  
14 (c) of this section and the rules adopted under section 1110 of this title,  
15 pursuant to rules adopted by the Agency of Natural Resources, for the  
16 reconstruction, repair, removal, breaching, draining, or other action necessary  
17 to reduce the threat risk of a dam ~~or portion of a dam determined to be unsafe~~  
18 ~~pursuant to section 1095 of this chapter.~~

19 (b) Funds from the Dam Safety Revolving Loan Fund shall be available for  
20 both emergency and nonemergency projects. To be eligible for a Dam Safety  
21 Loan, the dam shall meet the conditions associated with the funding type:

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (1) Emergency funding. To provide emergency funding for critical,  
2           time-sensitive temporary safety or risk reduction measures such as reservoir  
3           drawdown, partially or fully breaching the dam, stabilization or buttressing of  
4           the dam, including engineering and emergency action planning activities. To  
5           be eligible for emergency funding, the dam must meet the following criteria:

6                   (A) The dam must be under the regulatory jurisdiction of the DEC  
7                   Dam Safety Program, including dams owned by the State of Vermont.

8                   (B) The dam must be in need of critical time-sensitive safety or risk  
9                   reduction measures in order to protect public safety and property, or be a dam  
10                  found to be unsafe or a menace to public safety under section 1095 of this title.  
11                  The Dam Safety Program shall be able to access the fund on behalf of owners  
12                  in cases of emergency, immediate need, or in the case of unwilling or unable  
13                  dam owners.

14                  (2) Nonemergency funding. For permanent safety or risk reduction  
15                  projects such as repair, rehabilitation, or removal, including engineering,  
16                  analyses, design, and construction. To be eligible for nonemergency funding,  
17                  the dam must meet the following criteria:

18                   (A) The dam must be under the regulatory jurisdiction of the DEC  
19                   Dam Safety Program, excluding dams owned by the State of Vermont.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (B) The dam must be classified as a significant or high-hazard  
2           potential dam and in fair, poor, or unsatisfactory condition based on the last  
3           periodic or comprehensive inspection.

4           (C) For funding for nonemergency repair or rehabilitation projects,  
5           the dam owner shall provide an operation and maintenance and dam safety  
6           compliance schedule as well as financial information to show sufficient  
7           resources are available to maintain the dam and comply with the dam safety  
8           rules after the completion of repairs or the rehabilitation project.

9           (D) For funding for nonemergency construction, the applicant shall  
10          provide proof that applicable local, State, and federal permits have been  
11          obtained, including the State Dam Safety Order.

12          (E) To be eligible for nonemergency funding, an alternatives analysis  
13          of dam repair, rehabilitation, and removal options that considers floodplain and  
14          wetland restoration, water quality, aquatic organism passage, public recreation  
15          opportunities, and costs shall be completed, pursuant to the rule adopted by the  
16          Department.

17          (F) Under this subdivision (b)(2), only engineering, analysis, design,  
18          and construction that result in removal of a dam are eligible for loan subsidy.

19          (c) The Fund created by this section shall be established and held separate  
20          and apart from any other funds or monies of the State and shall be used and  
21          administered exclusively for the purposes set forth in this section. The funds

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 shall be invested in the same manner as permitted for investment of funds  
2 belonging to the State or held in the Treasury. The Fund shall consist of the  
3 following:

4 (1) ~~Such~~ such sums as may be appropriated or transferred thereto from  
5 time to time by the General Assembly, the Emergency Board, or the Joint  
6 Fiscal Committee during such times as the General Assembly is not in  
7 session;

8 (2) ~~Principal~~ principal and interest received from the repayment of loans  
9 made from the Fund;

10 (3) ~~Capitalization~~ capitalization grants and awards made to the State by  
11 the United States of America for the purposes for which the Fund has been  
12 established;

13 (4) ~~Interest~~ interest earned from the investment of Fund balances;

14 (5) ~~Private~~ private gifts, bequests, and donations made to the State for  
15 the purposes for which the Fund has been established; and

16 (6) ~~Other~~ other funds from any public or private source intended for use  
17 for any of the purposes for which the Fund has been established.

18 ~~(e)~~(d) The Secretary may bring an action under this subsection or other  
19 available State and federal laws against the owner of the dam to seek  
20 reimbursement to the Fund for all loans made from the Fund pursuant to this  
21 section.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1       (e)(1) Annually, on or before January 31, the Department shall report to the  
2       House Committee on Environment and Energy and the Senate Committee on  
3       Natural Resources and Energy regarding operation and administration of the  
4       Dam Safety Program. The report shall include:

5               (A) details on all emergency and nonemergency loans made from the  
6       Dam Safety Fund during the previous year;

7               (B) a description of each project funded from the Dam Safety Fund,  
8       including dam name, town and waterbody in which the dam is located, hazard  
9       classification, dam condition, details of the repair or removal, year of the last  
10       and next Department inspection, project cost, loan amount, and repayment  
11       terms;

12               (C) for emergency loans, justification for the emergency and an  
13       explanation why action was needed to be undertaken immediately using State  
14       funds; and

15               (D) a projection of loan repayment income to the fund.

16       (2) The Department shall post reports made under this subsection to its  
17       website on the same date the report is submitted to the General Assembly.

18       § 1107. HAZARD POTENTIAL CLASSIFICATIONS

19       (a) ~~The State agency having jurisdiction over a nonfederal dam listed in the~~  
20       ~~Vermont Dam Inventory~~ Department shall assess the hazard potential  
21       classification of ~~the dam~~ all nonfederal dams listed in the Vermont Dam



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Inventory based on the potential loss of human life, property damage, and  
2 economic loss that would occur in the event of the failure of the dam. There  
3 shall be four hazard potential classifications: high, significant, low, and  
4 minimal.

5 (b) ~~The State agency having jurisdiction over a nonfederal dam on the~~  
6 ~~Vermont Dam Inventory~~ Department may assess or reassess the hazard  
7 potential classification of the dam at any time.

8 \* \* \*

9 § 1110. RULEMAKING

10 The Commissioner of Environmental Conservation shall adopt rules to  
11 implement the requirements of this chapter for dams under the jurisdiction of  
12 the Department. The rules shall include:

13 (1) a standard or regulatory threshold under which a dam is exempt from  
14 the registration or inspection requirements of this chapter;

15 (2) standards for:

16 (A) the siting, design, construction, reconstruction, enlargement,  
17 modification, or alteration of a dam;

18 (B) operation and maintenance of a dam;

19 (C) inspection, monitoring, record keeping, and reporting;

20 (D) repair, breach, or removal of a dam;

21 (E) application for authorization under section 1082 of this title; and

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 (F) the development of an emergency action plan for a dam,  
2 including guidance on how to develop an emergency action plan, the content of  
3 a plan, and when and how an emergency action plan should be updated;

4 (3) criteria for the hazard potential classification of dams in the State;

5 (4) a process by which a person owning legal title to a dam or a person  
6 owning the land on which the dam is located shall register a dam and record  
7 the existence of the dam in the lands records; and

8 (5) requirements for the person owning legal title to a dam or the person  
9 owning the land on which the dam is located to conduct inspections of the  
10 dam;

11 (6) requirements for access to financing and subsidy from the Dam  
12 Safety Revolving Loan Fund; and

13 (7) requirements and criteria for an alternative analysis, including that it  
14 be conducted by an independent third party and is necessary for eligibility for  
15 nonemergency funding from the Unsafe Dam Fund.

16 § 1111. NATURAL RESOURCES ATLAS; DAM STATUS

17 ~~Annually on or before January 1, the Public Utility Commission shall~~  
18 ~~submit to the Department updated inventory information from the previous~~  
19 ~~calendar year for dams under the jurisdiction of the Public Utility Commission.~~

20 [Repealed.]

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Sec. 17. 2018 Acts and Resolves No. 161, Sec. 2, as amended by 2023 Acts  
2 and Resolves No. 79, Sec. 1, is further amended to read:

3 Sec. 2. DAM REGISTRATION PROGRAM REPORT

4 On or before January 1, ~~2025~~ 2026, the Department of Environmental  
5 Conservation shall submit a report to the House Committees on ~~Natural~~  
6 ~~Resources, Fish, and Wildlife~~ Environment and Energy and on Ways and  
7 Means and the Senate Committees on Natural Resources and Energy and on  
8 Finance. The report shall contain:

9 (1) an evaluation of the dam registration program under 10 V.S.A.  
10 chapter 43;

11 (2) a recommendation on whether to modify the fee structure of the dam  
12 registration program;

13 (3) a summary of the dams registered under the program, organized by  
14 amount of water impounded and hazard potential classification; and

15 (4) an evaluation of any other dam safety concerns related to dam  
16 registration.

17 Sec. 18. 2018 Acts and resolves No. 161, Sec. 3, as amended by 2023 Acts  
18 and resolves No. 79, Sec. 2, is further amended to read:

19 Sec. 3. ADOPTION OF RULES

20 The Secretary of Natural Resources shall adopt the rules required under  
21 10 V.S.A. § 1110 as follows:

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (1) the rules required under 10 V.S.A. § 1110(1) (exemptions),  
2           § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification),  
3           § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted  
4           on or before July 1, 2020; and

5           (2) the rules required under 10 V.S.A. § 1110(2) (dam design standards)  
6           shall be adopted on or before July 1, 2024 2025.

7           Sec. 19. DAM SAFETY DIVISION POSITIONS

8           In addition to other funds appropriated to the Agency of Natural Resources  
9           in fiscal year 2025, \$350,000.00 is appropriated to the Agency for the purposes  
10          of funding three new permanent full-time classified positions in the Dam  
11          Safety Division of the Department of Environmental Conservation.

12          Sec. 20. STUDY COMMITTEE ON DAM EMERGENCY ACTION

13          PLANNING

14          (a) Creation. There is created the Study Committee on Dam Emergency  
15          Action Planning to review and recommend how to improve regional  
16          emergency action planning for hazards caused by dam failure, including how  
17          to shift responsibility for emergency planning from individual municipalities to  
18          regional authorities, how to improve regional implementation of dam  
19          emergency response plans, and how to fund dam emergency action planning at  
20          the regional level.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           **(b) Membership. The Study Committee on Dam Emergency Action**

2           **Planning shall be composed of the following members:**

3                   **(1) one current member of the House of Representatives, who shall be**

4           **appointed by the Speaker of the House;**

5                   **(2) one current member of the Senate, who shall be appointed by the**

6           **Committee on Committees;**

7                   **(3) one member of the Department of Environmental Conservation Dam**

8           **Safety Program, who shall be appointed by the Governor;**

9                   **(4) one member of the Public Utility Commission, who shall be**

10           **appointed by the Speaker of the House;**

11                   **(5) two members representing regional planning commissions in the**

12           **State, who shall be appointed by the Committee on Committees;**

13                   **(6) one member of the Division of Emergency Management, appointed**

14           **by the Governor; and**

15                   **(7) one legal owner of a dam appointed by the Speaker upon**

16           **recommendation of the Dam Safety Program of the Department of**

17           **Environmental Conservation.**

18           **(c) Powers and duties. The Study Committee on Dam Emergency Action**

19           **Planning shall:**

20                   **(1) identify those dams in the State that are classified as high hazard**

21           **dams that also have a significant possibility of flooding populated areas;**

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

- 1           (2) summarize the existing responsibilities of individual municipalities
- 2           to prepare for and implement existing emergency response plans, including
- 3           how those responsibilities are funded and whether placing responsibility with
- 4           individual municipalities is appropriate;
- 5           (3) identify the regional planning commissions in which a dam
- 6           identified under subdivision (1) of this subsection are located;
- 7           (4) recommend the content for a regional emergency action plan for
- 8           each dam identified under subdivision (1) of this subsection, including
- 9           identifying necessary evacuations, how evacuees will be sheltered and
- 10          provided care, and the location of emergency management centers for each
- 11          dam;
- 12          (5) recommend who should prepare a regional emergency action plan
- 13          for each dam identified under subdivision (1) of this subsection, including the
- 14          basis for the recommendation and the role that regional planning commissions
- 15          should play in the preparation of the plans;
- 16          (6) an estimate of the cost of the production of regional emergency
- 17          action plans for dams; and
- 18          (7) an estimate of the cost for regional planning commissions and
- 19          municipalities to implement an emergency action plan, including a
- 20          recommended source of the funding.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (d) Assistance. For purposes of scheduling meetings and administrative  
2           support, the Study Committee shall have the assistance of the Office of  
3           Legislative Operations. For purposes of providing legal assistance and drafting  
4           of legislation, the Study Committee shall have the assistance of the Office of  
5           Legislative Counsel. For the purpose of providing fiscal assistance, the Study  
6           Committee shall have the assistance of the Joint Fiscal Office.

7           (e) Report. On or before December 15, 2024 the Study Committee shall  
8           submit a written report to the General Assembly with its findings and any  
9           recommendations for legislative action. Any recommendation for legislative  
10           action shall be submitted as draft legislation.

11           (f) Meetings.

12           (1) The Office of Legislative Counsel shall call the first meeting of the  
13           Study Committee.

14           (2) The Committee shall select a chair from among its members at the  
15           first meeting.

16           (3) A majority of the membership of the Study Committee shall  
17           constitute a quorum.

18           (4) The Study Committee shall cease to exist on March 1, 2025.

19           (g) Compensation and reimbursement.

20           (1) For attendance at meetings during adjournment of the General  
21           Assembly, a legislative member of the Study Committee shall be entitled to per

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23  
2 for not more than eight meetings. These payments shall be made from monies  
3 appropriated to the General Assembly.

4 (2) Other members of the Study Committee shall be entitled to per diem  
5 compensation and reimbursement of expenses as permitted under 32 V.S.A.  
6 § 1010 for not more than eight meetings. These payments shall be made from  
7 monies appropriated to the General Assembly.

#### 8 Sec. 21. DETERMINATION OF FEDERAL ENERGY REGULATORY

#### 9 COMMISSION (FERC) JURISDICTION

10 Nonfederal hydroelectric projects without a valid pre-1920 license may be  
11 subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction  
12 and may require a license from FERC to operate. By December 31, 2024, the  
13 Public Utility Commission, in coordination with the Department of  
14 Environmental Conservation, shall file petitions for a Declaratory Order from  
15 FERC to determine whether projects currently under the Public Utility  
16 Commission's jurisdiction falls under FERC's hydroelectric licensing  
17 jurisdiction. The Public Utility Commission shall provide notice to the dam  
18 owner when a petition is filed with FERC.

#### 19 Sec. 22. TRANSITION; DAMS

20 (a)(1) The Department of Environmental Conservation shall publish a  
21 schedule by January 1, 2025 for the jurisdictional transfer from the Public



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 Utility Commission to the Department of the dams that currently as of the  
2 effective date of this act are regulated by the Public Utility Commission. The  
3 schedule shall be based on the presumed hazard classification of each dam,  
4 provided that:

5 (A) the Agency shall assume jurisdiction over dams with a high  
6 hazard classification by July 1, 2025; and,

7 (2) the Agency shall assume jurisdiction over all other dams by July  
8 1, 2028.

9 (b) Notwithstanding the effective date of Sec. 16 of this act (transfer of  
10 dam safety jurisdiction), the Public Utility Commission shall retain jurisdiction  
11 over dams within its control as of the effective date of this act until the  
12 jurisdiction of each dam is transferred to the Department of Environmental  
13 Conservation under the schedule required by subsection (a) of this section.

14 While the Public Utility Commission continues to exercise authority under 10  
15 V.S.A. Chapter 43, the Public Utility Commission shall apply the dam design  
16 standard rules as adopted by the Department of Environmental Conservation.

17 (c) The rulemaking required under Sec. 16 (dam safety transfer) under 10  
18 V.S.A. §1110(6) and (7) shall be completed on or before July 1, 2027.

19 (d) Funding from the Dam Safety Revolving Fund, as amended by Sec. 16  
20 (dam safety transfer) shall be available for nonemergency use upon the  
21 completion of rulemaking required under 10 V.S.A. §1110(6) and (7).



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of  
2 required reports) shall not apply to the report to be made under this subsection.

3 (2) In developing a basin plan under this subsection, the Secretary shall:

4 (A) identify waters that should be reclassified outstanding resource  
5 waters or that should have one or more uses reclassified under section 1252 of  
6 this title;

7 (B) identify wetlands that should be reclassified as Class I wetlands;

8 (C) identify projects or activities within a basin that will result in the  
9 protection and enhancement of water quality;

10 \* \* \*

11 (J) provide for public notice of a draft basin plan; ~~and~~

12 (K) provide for the opportunity of public comment on a draft basin  
13 plan; and

14 (L) identify opportunities to mitigate impacts of severe precipitation  
15 events on communities through implementation of nature-based restoration  
16 projects or practices that increase natural flood water attenuation and storage.

17 \* \* \* Expanded Polystyrene Foam \* \* \*

18 Sec. 24. 10 V.S.A. chapter 47, subchapter 2B is added to read:

19 Subchapter 2B. Expanded Polystyrene Foam

20 § 1321. DEFINITIONS

21 As used in this subchapter:

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (1) “Buoy” means any float or marker that is attached to a mooring  
2           anchor and either is suitable for attachment to a boat through the use of a  
3           pennant or other device or facilitates the attachment of the boat to the mooring  
4           anchor.

5           (2) “Dock” means an unenclosed structure secured to land, land under  
6           waters, or a mooring or a floating structure that is used for mooring boats or  
7           for recreational activities, such as a swimming, fishing, or sunbathing platform.  
8           A dock includes a structure that is partially enclosed or has two or more levels.

9           (3) “Encapsulated” means a protective covering or physical barrier  
10           between the polystyrene device and the water.

11           (4) “Expanded polystyrene foam” means a thermoplastic petrochemical  
12           material utilizing the styrene monomer that is processed according to multiple  
13           techniques, including fusion of polymer spheres, injection molding, form  
14           molding, and extrusion-blow molding.

15           (5) “Floating structure” means a structure constructed on or in a water of  
16           the State that is supported by flotation and is secured in place by a piling or  
17           mooring anchor, including boathouses, fueling structures, floating homes,  
18           marinas, walkways, or boarding platforms.

19           (6) “Mooring anchor” means any anchor or weight that is designed to:

20           (A) rest on the land under water or be buried in the land under water;

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (B) be attached to a buoy or floating structure by a chain, rope, or  
2           other mechanism; and

3           (C) be left in position permanently or on a seasonal basis.

4           § 1322. INSTALLATION, REPAIR, REMOVAL, AND SALE OF BUOYS,  
5           DOCKS, OR FLOATING STRUCTURES

6           (a) Encapsulation required. When a person installs a buoy, dock, or  
7           floating structure on the waters of the State, any expanded polystyrene foam  
8           used for flotation shall be encapsulated by a protective covering or shall be  
9           designed to prevent the expanded polystyrene foam from disintegrating into  
10          the water.

11          (b) Prohibition; open-cell (beaded) polystyrene. No person shall use open-  
12          cell (beaded) polystyrene for a buoy, dock, or floating structure on the waters  
13          of the State.

14          (c) Methods of encapsulation.

15           (1) Encapsulation of a buoy, dock, or floating structure required under  
16           subsection (a) of this section shall completely cover or be a physical barrier  
17           between the expanded polystyrene foam and the water. Small gaps up to 0.75-  
18           inch diameter ballast holes are permitted in the physical barrier or covering  
19           provided they are 0.1 percent or less of the square footage of the buoy, dock, or  
20           floating structure.

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (2) All materials and methods of encapsulation shall provide an  
2           effective physical barrier between the expanded polystyrene foam and the  
3           water for a period not less than 10 years. Any fasteners used to hold  
4           encapsulation materials together shall be effectively treated or be of a form  
5           resistant to corrosion and decay.

6           (d) Repair. A person may repair and maintain the flotation of a dock, buoy,  
7           or float only with an expanded submersible encapsulated polystyrene device  
8           that meets the requirements of subsection (c) of this section.

9           (e) Sale or distribution. No person shall sell, offer for sale, or otherwise  
10           distribute for compensation within the State dock floats, mooring buoys, or  
11           anchor or navigation markers made, in whole or in part, from expanded  
12           polystyrene foam that is:

13           (1) not wholly encapsulated or encased within a more durable material;  
14           or

15           (2) open-cell (beaded) polystyrene, including materials that are  
16           encapsulated and unencapsulated.

17           § 1323. NUISANCE

18           In addition to the prohibitions set forth in section 1322 of this title, the use  
19           of unencapsulated polystyrene as a flotation device in waters of the State,  
20           including in any dock system, float, mooring system, or buoy, is declared a

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 nuisance and public health hazard, and may be prosecuted as provided in the  
2 Vermont Revised Statutes.

3 § 1324. RULEMAKING

4 The Secretary may adopt rules to implement the requirements of this  
5 subchapter.

6 Sec. 25. APPROPRIATIONS

7 The amount of \$50,000.00 shall be appropriated from the General Fund to  
8 the Department of Environmental Conservation for use by the Lakes and Ponds  
9 Program for staffing requirements and distribution, if necessary, as grants to  
10 lake and pond associations and similar groups to assist lakeshore residents,  
11 businesses, and organizations with the replacement of existing unencapsulated  
12 devices.

13 \* \* \* Floodplain Management; Use Value Appraisal Program \* \* \*

14 Sec. 26. STUDY COMMITTEE ON ENROLMENT OF FLOODPLAIN

15 MANAGEMENT LAND IN USE VALUE APPRAISAL; REPORT

16 (a) Creation. There is created the Study Committee on Enrolling  
17 Floodplain Management Land in the Use Value Appraisal Program to  
18 determine whether or how to authorize the enrollment of land designated for  
19 floodplain management in the Use Value Appraisal (UVA) Program.

20 (b) Membership. The Study Committee shall be composed of the  
21 following members:

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1           (1) one current member of the House of Representatives, who shall be  
2 appointed by the Speaker of the House;

3           (2) one current member of the Senate, who shall be appointed by the  
4 Committee on Committees;

5           (3) the Director of Property Valuation and Review or designee;

6           (4) the Director of the Rivers Program within the Watershed  
7 Management Division at the Department of Environmental Conservation or  
8 designee;

9           (5) the Secretary of Agriculture, Food and Markets or designee;

10          (6) a member of the Current Use Advisory Board, appointed by the  
11 Speaker of the House; and

12          (7) a member of a statewide environmental organization, appointed by  
13 the Committee on Committees.

14          (c) Powers and duties. The Study Committee shall evaluate the following  
15 questions:

16           (1) whether and why real property managed to provide flood mitigation  
17 or flood resilience services should or should not be authorized to enroll in the  
18 UVA Program; and

19           (2) if the Study Committee recommends that real property that provides  
20 flood mitigation or flood resilience services should be allowed to enroll in the  
21 UVA Program, what should be the criteria for enrollment, what should be the



Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 use value rate for qualifying enrolled real property, and what should be the  
2 timeline for enrollment.

3 (d) Assistance. The Study Committee shall have the administrative,  
4 technical, legal, and fiscal assistance of the Department of Taxes.

5 (e) Report. On or before January 15, 2025, the Study Committee shall  
6 submit a written report to the Senate Committees on Finance and on Natural  
7 Resources and Energy and the House Committees on Ways and Means and on  
8 Environment and Energy with its findings and any recommendations for  
9 legislative action, including proposed legislative language.

10 (f) Meetings.

11 (1) The Director of Property Valuation and Review or designee shall  
12 call the first meeting of the Study Committee to occur on or before September  
13 1, 2025.

14 (2) The Study Committee shall select a chair from among its members at  
15 the first meeting.

16 (3) A majority of the membership shall constitute a quorum.

17 (4) The Study Committee shall cease to exist on March 1, 2025.

18 (g) Compensation and reimbursement.

19 (1) For attendance at meetings during adjournment of the General  
20 Assembly, a legislative member of the Study Committee shall be entitled to per  
21 diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 for not more than eight meetings. These payments shall be made from monies  
2 appropriated to the General Assembly.

3 (2) Other members of the Study Committee shall be entitled to per diem  
4 compensation and reimbursement of expenses as permitted under 32 V.S.A.  
5 § 1010 for not more than eight meetings. These payments shall be made from  
6 monies appropriated to the Department of Taxes.

7 \* \* \* Emergency Permit Notice \* \* \*

8 Sec. 27. 10 V.S.A. § 7706 is added to read:

9 § 7706. EMERGENCY NOTICE PROVISIONS FOR NATURAL

10 DISASTERS

11 Notwithstanding the requirements of this chapter, during a federally  
12 declared emergency or state of emergency issued in response to a natural  
13 disaster, the Secretary may issue certain individual permits and notices of  
14 intent under a general permit as emergency permits according to the  
15 procedures established in section 7716 of this title (Type 5 Procedures). This  
16 section shall only apply to approvals governing activities that are necessary to  
17 respond to the conditions created or caused by a natural disaster to conduct  
18 hazard mitigation, support response and recovery efforts to alleviate hardship  
19 and suffering of citizens and communities, or preserve public health and safety  
20 and property of the State. This section shall not apply to permits or notices of

Yellow highlighting = Change from Last Draft  
Grey highlighting = Questions/Unresolved Issues

1 intent for activities which are subject to section 7712 of this title (Type I  
2 Procedures).

3 \* \* \* Tax on Hazardous Waste \* \* \*

4 Sec. 28. 32 V.S.A. § 10104(a) is amended to read:

5 (a) On or before the last day of the month following each calendar quarter,  
6 the Secretary shall calculate the amount of tax due under this chapter based on  
7 information required to be reported on a manifest or other report during ~~that~~  
8 the previous calendar quarter and shall supply the Commissioner with the  
9 name, address, and amount of tax owed by each person required to pay tax for  
10 that quarter.

11 \* \* \* Effective Dates \* \* \*

12 Sec. 29. EFFECTIVE DATES

13 (a) This section and Secs. 17 (dam registration report), 18 (dam design  
14 standard rules), 21 (FERC petition), and 27 (emergency permits) shall take  
15 effect on passage.

16 (b) Sec. 28 (hazardous waste tax) shall take effect on passage and shall  
17 apply to the next calendar quarter for which taxes have not yet been calculated.

18 (c) All other sections shall take effect July 1, 2024, except that:

19 (1) in Sec. 10, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund)  
20 shall take effect on passage;

