

DEPARTMENT OF ENVIRONMENTAL CONSERVATION LEGISLATIVE REPORT

Determination of Federal Energy Regulatory Commission (FERC) Jurisdiction

Year: 2025

Date reported: December 15, 2025

Authorizing statute: The Flood Safety Act (Act 121) of 2024 (S.213): An Act Relating to the Regulation of Wetlands, River Corridor Development, and Dam Safety, Sec. 24. Transition; Dams

Committees: The Senate Committee on Natural Resources and Energy and the House Committees on Environment and Energy & Digital Infrastructure

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FERC Determination Status

The Vermont Public Utility Commission (PUC) currently has dam safety jurisdiction over 22 hydroelectric dams. Act 121 mandates the transfer of dam safety jurisdiction over these dams from the PUC to the Department of Environmental Conservation (DEC) by July 1, 2028. Act 121 requires DEC to file petitions with the Federal Energy Regulatory Commission (FERC) for Declaratory Orders to determine whether the projects currently under the PUC's jurisdiction fall under FERC's hydroelectric licensing jurisdiction. Any dams over which FERC does not claim jurisdiction or for which FERC's evaluation has not been completed by July 1, 2028, will fall under DEC's jurisdiction.

For a non-federal hydroelectric project/dam to be FERC jurisdictional, it must meet one or more of the following criteria:

- located on a navigable stream of the United States;
- occupy land of the United States;
- use water or waterpower from a government dam; or
- located on a body of water over which Congress has Commerce Clause jurisdiction, project construction has occurred on or after August 26, 1935, and the project affects the interests of interstate commerce.

At the beginning of this process a total of 22 dams were under the PUC's jurisdiction. DEC and the PUC are reviewing these dams to determine which require "Petitions for Jurisdictional Review" to FERC. The status of this work is summarized below.

No. of Dams	Status of Review and FERC Petitions
6	Petitions submitted to FERC; receipt acknowledged for 3, investigations pending.
1	Petition nearly complete, to be submitted to FERC shortly.

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1	FERC has assumed jurisdiction.
3	DEC will assume jurisdiction by July 1, 2028, as associated hydropower facilities are located in Canada (not subject to FERC jurisdiction).
7	Require additional onsite investigation (planned for Spring 2026) to determine any applicable criteria which would indicate FERC jurisdiction.
4	Additional information collected from the PUC is currently under review; petitions may be drafted and submitted afterward, as appropriate.
22	TOTAL

In summary, out of the 22 dams:

- 1 dam, FERC has assumed jurisdiction.
- 3 dams, confirmed to fall under DEC jurisdiction due to the location of their hydropower facilities in Canada.
- 6 dams, ANR has filed petitions to FERC and the timelines for FERC's analysis and decisions are not yet defined.
- 12 dams, require further work before filing petitions with FERC, with the goal to file by Spring 2026.

This process is part of the Flood Safety Act (Act 121), which aims to enhance flood resilience and public safety by consolidating dam safety regulation with DEC or FERC.