
This act summary is provided for the convenience of the public and members of the General Assembly. It is intended to provide a general summary of the act and may not be exhaustive. It has been prepared by the staff of the Office of Legislative Counsel without input from members of the General Assembly. It is not intended to aid in the interpretation of legislation or to serve as a source of legislative intent.

Act No. 121 (S.213). An act relating to the regulation of wetlands, river corridor development, and dam safety

Subjects: Conservation and development; wetlands; dam safety; river corridors

This act, entitled the Flood Safety Act, amends multiple provisions related to river corridors, flood hazard areas, wetlands, and dams. The act directs the Department of Environmental Conservation (DEC) to amend the State River Corridor Base Map by January 1, 2026, to identify areas suitable for development located in existing settlements in river corridors that will not contribute to fluvial erosion hazards. DEC is required to adopt rules addressing development in mapped river corridors. Beginning on January 1, 2028, a permit from DEC is required to commence or conduct development in a river corridor. “Development” is defined as any man-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

The act requires the Agency of Natural Resources (ANR) to adopt rules to establish flood hazard area standards for enrollment in the National Flood Insurance Program (NFIP). On or after January 1, 2028, the State Flood Hazard Area Standards shall be the State’s minimum flood hazard area standards. A municipality with a flood hazard area bylaw is required to update the bylaw to conform to the State standards. The act also requires ANR to establish the Study Committee on State Administration of the National Flood Insurance Program to recommend how to reduce vulnerability to inundation flooding, including whether and how to shift administration and NFIP enforcement from towns to DEC. The Study Committee shall report its findings to the General Assembly on or before August 15, 2025.

The act provides that it is the policy of the State to protect, regulate, and restore wetlands so that the State achieves a net gain of wetlands acreage. The act requires ANR to update the Vermont Significant Wetlands Inventory (VSWI) maps on or before January 1, 2026, and not less than annually thereafter. Similarly, on or before January 1, 2030, the act requires ANR to complete High Quality Wetlands Inventory Plus mapping for all tactical basins in the State.

In addition, the act requires ANR on or before July 1, 2025, to amend the Vermont Wetlands Rules to provide that the goal of wetlands regulation in the State is the net gain of wetlands to be achieved through protection of existing wetlands and restoration of previously affected wetlands. Where a permitted activity in a wetland will cause more than 5,000 square feet of adverse effects that cannot be avoided, ANR shall require a permit applicant to restore, enhance, or create wetlands or buffers to compensate for the adverse effects on a wetland. The amount of wetlands to be restored, enhanced, or created shall be calculated by determining the acreage or square footage of wetlands permanently drained or filled as a result of the permitted activity and multiplying that acreage or square footage by two, to result in ratio of 2:1 restoration to wetland loss.

The act transfers from the Public Utility Commission to DEC jurisdiction over the safety of 21 electric generating dams. The PUC will retain authority over any activities at the 21 dams that require authorization relating to electric generation. The act also amends the existing Unsafe Dam Revolving Loan Fund to be the Dam Safety Revolving Loan Fund. The revised fund will provide financial assistance for emergency and nonemergency projects. In addition, the act establishes the Study Committee on Dam Emergency Operations Planning to recommend how to improve regional emergency action planning for hazards from dam failure, including how to shift responsibility for emergency planning from municipalities to regional authorities and how to fund dam emergency action planning at the regional level. The Study Committee shall report to the General Assembly on or before December 15, 2024.

The act also bans the sale of dock floats, mooring buoys, or anchor or navigation markers made, in whole or in part, from expanded polystyrene foam that is not wholly encapsulated or encased within a more durable material or open-cell (beaded) polystyrene, including materials that are encapsulated and unencapsulated. The act also prohibits the use of unencapsulated polystyrene or open-cell (beaded) polystyrene for the installation or repair of a new buoy, dock, or floating structure on the waters of the State. The act also requires ANR and the Natural Resources Board to separately report on how and whether to establish criteria for waiving, reducing, or mitigating Act 250 permit fees for persons of low income or other criteria.

Multiple effective dates, beginning on May 30, 2024