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S.213

An act relating to the regulation of wetlands, river corridor development,
and dam safety

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Short Title * * *

Sec. 1. SHORT TITLE

This act may be cited as the “Flood Safety Act.”

* * * Development in River Corridors * * *

Sec. 2. FINDINGS

The General Assembly finds that for purposes of Secs. 3–11 of this act:

(1) According to the 2023 National Climate Assessment, the northeastern region of the United States has experienced a 60 percent increase in more extreme precipitation events since 1958, particularly in inland flooding of valleys, where persons, infrastructure, and agriculture tend to be concentrated.

(2) The 2021 Vermont Climate Assessment highlights that Vermont has seen:

(A) a 21 percent increase in average annual precipitation since 1990;
and

(B) 2.4 additional days of heavy precipitation since the 1960s.

(3) According to the National Oceanic and Atmospheric Administration’s National Centers for Environmental Information, average

1 annual damages from flooding and flood-related disasters between 1980 and
2 2023 exceeds 30 million, conservatively.

3 (4) According to the Department of Environmental Conservation, 70 to
4 80 percent of all flood-related damages occur within Vermont's river corridors.

5 (5) According to the Department of Environmental Conservation, only
6 10 percent of Vermont municipalities, cities, or incorporated villages have
7 adopted full river corridor protections through the Department's model bylaws.

8 (6) Promoting existing compact settlements, located along Vermont
9 waterways, will require improved flood resilience efforts, as described in the
10 initial Vermont Climate Action Plan of 2021, such as managing flood and
11 fluvial erosion hazards to protect Vermont's compact settlements, which will
12 be a critical component of a successful climate adaptation response.

13 (7) The State, as recommended in the initial Vermont Climate Action
14 Plan of 2021, should adopt legislation that would authorize the Agency of
15 Natural Resources to revise the Vermont Flood Hazard Area and River
16 Corridor rule to provide the Agency with delegable, statewide jurisdiction and
17 permitting authority for new development taking place in mapped river
18 corridors.

1 Sec. 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION;
2 RIVER CORRIDOR BASE MAP; INFILL MAPPING;
3 EDUCATION AND OUTREACH

4 (a) On or before January 1, 2026, the Department of Environmental
5 Conservation, in consultation with the Agency of Commerce and Community
6 Development and the regional planning commissions, shall amend by
7 procedure the statewide River Corridor Base Map to identify areas suitable for
8 development that are located within existing settlements and that will not cause
9 or contribute to increases in fluvial erosion hazards.

10 (b) Beginning on January 1, 2025 and ending on January 1, 2027, the
11 Department of Environmental Conservation shall conduct an education and
12 outreach program to consult with and collect input from municipalities,
13 environmental justice focus populations, the Environmental Justice Advisory
14 Council, businesses, property owners, farmers, and other members of the
15 public regarding how State permitting of development in mapped river
16 corridors will be implemented, including potential restrictions on the use of
17 land within mapped river corridors. The Department shall develop educational
18 materials for the public as part of its charge under this section. The
19 Department shall collect input from the public regarding the permitting of
20 development in mapped river corridors as proposed by this act. On or before
21 January 15, 2027 and until permitting of development in mapped river

1 corridors begins under 10 V.S.A. § 754, the Department shall submit to the
2 Senate Committee on Natural Resources and Energy, the House Committee on
3 Environment and Energy, and the Environmental Justice Advisory Council a
4 report that shall include:

5 (1) a summary of the public input it received regarding State permitting
6 of development in mapped river corridors during the public education and
7 outreach required under this section;

8 (2) recommendations, based on the public input collected, for changes to
9 the requirements for State permitting of development in mapped river
10 corridors;

11 (3) an analysis and summary of State permitting of development in
12 mapped river corridors on environmental justice populations; and

13 (4) a summary of the Department’s progress in adopting the rules
14 required under 10 V.S.A. § 754 for the regulation of development in mapped
15 river corridors.

16 Sec. 4. 10 V.S.A. § 752 is amended to read:

17 § 752. DEFINITIONS

18 ~~For the purpose of~~ As used in this chapter:

19 * * *

20 (2) “Development,” for the purposes of flood hazard area management
21 and regulation, ~~shall have~~ has the same meaning as “development” under

1 44 C.F.R. § 59.1.

2 (3) “Flood hazard area” ~~shall have~~ has the same meaning as “area of
3 special flood hazard” under 44 C.F.R. § 59.1.

4 * * *

5 (8) “~~Uses~~ Development exempt from municipal regulation” means ~~land~~
6 ~~use or activities that are~~ development that is exempt from municipal land use
7 regulation under 24 V.S.A. chapter 117.

8 * * *

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

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

16 Sec. 5. 10 V.S.A. § 754 is amended to read:

17 § 754. ~~FLOOD HAZARD AREA RULES ; USES EXEMPT FROM~~

18 ~~MUNICIPAL REGULATION~~ MAPPED RIVER CORRIDOR

19 RULES

20 (a) Rulemaking authority.

21 (1) ~~On or before November 1, 2014, the Secretary shall adopt rules~~

1 pursuant to ~~3 V.S.A. chapter 25~~ that establish requirements for the issuance
2 and enforcement of permits applicable to:

3 (i) ~~uses exempt from municipal regulation that are located within a~~
4 ~~flood hazard area or river corridor of a municipality that has adopted a flood~~
5 ~~hazard bylaw or ordinance under 24 V.S.A. chapter 117; and~~

6 (ii) ~~State owned and operated institutions and facilities that are~~
7 ~~located within a flood hazard area or river corridor~~ On or before July 1, 2027,
8 the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish
9 requirements for issuing and enforcing permits for:

10 (A) all development within a mapped river corridor in the State; and
11 (B) for development exempt from municipal regulation in flood
12 hazard areas.

13 * * *

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

15 (1) set forth the requirements necessary to ensure ~~uses~~ that development
16 exempt from municipal regulation are in flood hazard areas is regulated by the
17 State in order to comply with the regulatory obligations set forth under the
18 National Flood Insurance Program;

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

21 (3) establish requirements for the permitting of development within the

1 mapped river corridors of the State;

2 (4) provide certain regulatory exemptions for minor development
3 activities in a mapped river corridor when the development activities have no
4 adverse environmental effects;

5 (5) establish the requirements and process for a municipality to be
6 delegated the State's permitting authority for development in a mapped river
7 corridor when the development is not exempt from municipal regulation and
8 when the municipality has adopted an ordinance or bylaw under 24 V.S.A.
9 chapter 117 that has been approved by the Secretary and that meets or exceeds
10 the requirements established under State rule;

11 (6) set forth a process for amending the statewide River Corridor Base
12 Map; and

13 ~~(e)(7) Discretionary rulemaking. The rules required under this section may~~
14 ~~establish requirements that exceed the requirements of the National Flood~~
15 ~~Insurance Program for ~~uses~~ development exempt from municipal regulation in~~
16 ~~flood hazard areas, including requirements for the maintenance of existing~~
17 ~~native riparian vegetation, provided that any rules adopted under this~~
18 ~~subsection that exceed the minimum requirements of the National Flood~~
19 ~~Insurance Program shall be designed to prevent or limit a risk of harm to life,~~
20 ~~property, or infrastructure from flooding.~~

21 ~~(d)(c) General permit. The rules authorized by this section may establish~~

1 requirements for a general permit to implement the requirements of this
2 section, including authorization under the general permit to conduct a specified
3 use exempt from municipal regulation without notifying or reporting to the
4 Secretary or an agency delegated under subsection ~~(g)~~(f) of this section. A
5 general permit implementing the requirements of this section shall not be
6 required to be issued by rule.

7 ~~(e)~~(d) Consultation with interested parties. Prior to submitting the rules
8 required by this section to the Secretary of State under 3 V.S.A. § 838, the
9 Secretary shall solicit the recommendations of and consult with affected and
10 interested persons and entities such as: the Secretary of Commerce and
11 Community Development; the Secretary of Agriculture, Food and Markets; the
12 Secretary of Transportation; the Commissioner of Financial Regulation;
13 representatives of river protection interests; representatives of fishing and
14 recreational interests; representatives of the banking industry; representatives
15 of the agricultural community; representatives of the forest products industry;
16 the regional planning commissions; municipal interests; and representatives of
17 municipal associations.

18 ~~(f)~~(e) Permit requirement. A Beginning on January 1, 2028, a person shall
19 not commence or conduct a use development exempt from municipal
20 regulation in a flood hazard area or commence or conduct any development in
21 a mapped river corridor in a municipality that has adopted a flood hazard area

1 ~~bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of~~
2 ~~a State-owned and -operated institution or facility located within a flood hazard~~
3 ~~area or river corridor,~~ without a permit issued under the rules required under
4 subsection (a) of this section by the Secretary or by a State agency delegated
5 permitting authority under subsection ~~(g)~~(f) of this section. When an
6 application is filed under this section, the Secretary or delegated State agency
7 shall proceed in accordance with chapter 170 of this title.

8 ~~(g)~~(f) Delegation.

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

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

17 (3) Prior to entering a memorandum of understanding, the Secretary
18 shall post the proposed memorandum of understanding on its website for 30
19 days for notice and comment. When the memorandum of understanding is
20 posted, it shall include a summary of the proposed memorandum; the name,
21 telephone number, and address of a person able to answer questions and

1 receive comments on the proposal; and the deadline for receiving comments.

2 A final copy of a memorandum of understanding entered into under this
3 section shall be sent to the chairs of the House ~~Committees on Energy and~~
4 ~~Technology and on Natural Resources, Fish, and Wildlife~~ Committee on
5 Environment and Energy, the Senate Committee on Natural Resources and
6 Energy, and any other committee that has jurisdiction over an agency that is a
7 party to the memorandum of understanding.

8 ~~(h)~~(g) Municipal authority. This section and the rules adopted under it
9 shall not prevent a municipality from adopting substantive requirements for
10 development in a flood hazard area bylaw or ordinance under 24 V.S.A.
11 chapter 117 that are more stringent than the rules required by this section,
12 provided that the bylaw or ordinance shall not apply to uses exempt from
13 municipal regulation.

14 Sec. 6. 10 V.S.A. § 755 is amended to read:

15 § 755. STATE FLOOD HAZARD AREA STANDARDS; MUNICIPAL
16 EDUCATION; MODEL FLOOD HAZARD AREA
17 BYLAW OR ORDINANCE

18 (a) State flood hazard area standards.

19 (1) On or before January 1, 2026, the Secretary shall adopt rules
20 pursuant to 3 V.S.A. chapter 25 that establish a set of flood hazard area
21 standards for enrollment in the National Flood Insurance Program (NFIP).

1 (2) The rules shall contain flood hazard area standards that meet or
2 exceed the minimum standards of the NFIP by reducing flood risk to new
3 development and ensuring new development does not create adverse impacts
4 to adjacent preexisting development.

5 (3) Any municipality with a municipal flood hazard area bylaw or
6 ordinance shall update their bylaw or ordinance to incorporate the State Flood
7 Hazard Area Standards. Nothing in this section shall prohibit a municipality
8 from adopting a more protective flood hazard standard with language and
9 standards approved by the Agency.

10 (4) On or after January 1, 2028, the State Flood Hazard Areas adopted
11 under subdivision (1) of this subsection shall be the State minimum flood
12 hazard areas standards.

13 (b) Education and assistance. The Secretary, in consultation with regional
14 planning commissions, shall provide ongoing education, technical assistance,
15 and guidance to municipalities regarding the requirements under 24 V.S.A.
16 chapter 117 necessary for compliance with the ~~National Flood Insurance~~
17 ~~Program~~ NFIP, including implementation of the State Flood Hazard Area
18 Standards adopted under subsection (a) of this section.

19 (~~b~~)(c) Model flood hazard area bylaw or ordinance. The Secretary shall
20 create and make available to municipalities a model flood hazard area bylaw or
21 ordinance for potential adoption by municipalities pursuant to 24 V.S.A.

1 chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth
2 the minimum provisions necessary to meet the requirements of the ~~National~~
3 ~~Flood Insurance Program~~ NFIP, including implementation of the State Flood
4 Hazard Area Standards adopted under subsection (a) of this section. The
5 model bylaw may include alternatives that exceed the minimum requirements
6 for compliance with the ~~National Flood Insurance Program~~ NFIP and State
7 Flood Hazard Area Standards in order to allow a municipality to elect whether
8 it wants to adopt the minimum requirement or an alternate requirement that
9 further minimizes the risk of harm to life, property, and infrastructure from
10 flooding.

11 ~~(e)~~(d) Assistance to municipalities with no flood hazard area bylaw or
12 ordinance. The Secretary, in consultation with municipalities, municipal
13 organizations, and regional planning commissions, shall provide education and
14 technical assistance to municipalities that lack a flood hazard area bylaw or
15 ordinance in order to encourage adoption of a flood hazard area bylaw or
16 ordinance that qualifies the municipality for the ~~National Flood Insurance~~
17 ~~Program~~ NFIP.

18 Sec. 6a. 24 V.S.A. § 2291(25) is amended to read:

19 (25) To regulate by means of an ordinance or bylaw development in a
20 flood hazard area, ~~river corridor protection area,~~ or other hazard area consistent
21 with the requirements of section 4424 of this title and the National Flood

1 Insurance Program. Such an ordinance or bylaw may regulate accessory
2 dwelling units in flood hazard ~~and fluvial erosion~~ areas. However, such an
3 ordinance or bylaw shall not require the filing of an application or the issuance
4 of a permit or other approval by the municipality for a planting project
5 considered to have a permit by operation of subsection 4424(c) of this title.

6 Sec. 7. 24 V.S.A. § 4302(c)(14) is amended to read:

7 (14) To encourage flood resilient communities.

8 (A) New development in identified flood hazard, fluvial erosion, and
9 river corridor protection areas should be avoided. If new development is to be
10 built in such areas, it should not exacerbate flooding and fluvial erosion and
11 should meet or exceed the statewide minimum flood hazard area standards
12 established by rule by the Agency of Natural Resources.

13 * * *

14 Sec. 8. 24 V.S.A. § 4382(a)(12) is amended to read:

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

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

1 (ii) recommends policies and strategies to protect the areas
2 identified and designated under subdivision (12)(A)(i) of this subsection and to
3 mitigate risks to public safety, critical infrastructure, historic structures, and
4 municipal investments. These strategies shall include adoption and
5 implementation of the State Flood Hazard Area Standards.

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

8 Sec. 8a. 24 V.S.A. § 4413(a)(2) is amended to read:

9 (2) Except for State-owned and -operated institutions and facilities, a
10 municipality may regulate each of the land uses listed in subdivision (1) of this
11 subsection for compliance with the National Flood Insurance Program and for
12 compliance with a municipal ordinance or bylaw regulating development in a
13 flood hazard area ~~or river corridor~~, consistent with the requirements of
14 subdivision 2291(25) and section 4424 of this title. These regulations shall not
15 have the effect of interfering with the intended functional use.

16 Sec. 8b. 24 V.S.A. § 4414(1)(G) is amended to read:

17 (G) ~~River corridors and buffers~~ Buffers. In accordance with section 4424 of
18 this title, a municipality may adopt bylaws to protect ~~river corridors and~~
19 ~~buffers, as those terms are~~ that term is defined in 10 V.S.A. §§ 1422 ~~and 1427~~,
20 in order to protect public safety; prevent and control water pollution; prevent
21 and control stormwater runoff; preserve and protect wetlands and waterways;

1 maintain and protect natural channel, streambank, and floodplain stability;
2 minimize ~~fluvial erosion and~~ damage to property and transportation
3 infrastructure; preserve and protect the habitat of terrestrial and aquatic
4 wildlife; promote open space and aesthetics; and achieve other municipal,
5 regional, or State conservation and development objectives for ~~river corridors~~
6 ~~and buffers. River corridor and buffer~~ Buffer bylaws may regulate the design
7 and location of development; control the location of buildings; require the
8 provision and maintenance or reestablishment of vegetation, including no net
9 loss of vegetation; require screening of development or use from waters;
10 reserve existing public access to public waters; and impose other requirements
11 authorized by this chapter.

12 Sec. 9. 24 V.S.A. § 4424 is amended to read:

13 § 4424. SHORELANDS; ~~RIVER CORRIDOR PROTECTION AREAS;~~

14 FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING

15 BYLAWS

16 (a) Bylaws; flood and other hazard areas; ~~river corridor protection~~. Any
17 municipality may adopt freestanding bylaws under this chapter to address
18 particular hazard areas in conformance with the municipal plan, the State
19 Flood Hazard Area Standards or, for the purpose of adoption of a flood hazard
20 area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6.
21 Such freestanding bylaws may include the following, which may also be part

1 of zoning or unified development bylaws:

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

3 (2) Bylaws to regulate development and use in ~~flood areas, river~~

4 ~~corridor protection areas~~, flood hazard areas or other hazard areas. The

5 following shall apply if flood hazard or other hazard area bylaws are enacted:

6 (A) Purposes.

7 (i) To minimize and prevent the loss of life and property, the
8 disruption of commerce, the impairment of the tax base, and the extraordinary
9 public expenditures and demands on public service that result from flooding,
10 landslides, erosion hazards, earthquakes, and other natural or human-made
11 hazards.

12 (ii) To ensure that the design and construction of development in
13 flood, ~~river corridor protection~~, hazard and other hazard areas are
14 accomplished in a manner that minimizes or eliminates the potential for flood
15 and loss or damage to life and property and ensures new development will not
16 adversely affect existing development in a flood hazard area ~~or that minimizes~~
17 ~~the potential for fluvial erosion and loss or damage to life and property in a~~
18 ~~river corridor protection area.~~

19 (iii) To manage all flood hazard areas designated pursuant to
20 10 V.S.A. § 753.

21 (iv) To make the State and municipalities eligible for federal flood

1 insurance and other federal disaster recovery and hazard mitigation funds as
2 may be available.

3 (B) Contents of bylaws. Except as provided in subsection (c) of this
4 section, flood, ~~river corridor protection area~~, hazard and other hazard area
5 bylaws ~~may~~ shall:

6 (i) ~~Contain standards and criteria that prohibit the placement of~~
7 ~~damaging obstructions or structures, the use and storage of hazardous or~~
8 ~~radioactive materials, and practices that are known to further exacerbate~~
9 ~~hazardous or unstable natural conditions~~ Require compliance with the State
10 Flood Hazard Area Standards established by rule pursuant to 10 V.S.A.
11 § 755(c) and meet all additional requirements under the National Flood
12 Insurance Program as set forth in 44 C.F.R. § 60.3.

13 (ii) ~~Require flood, fluvial erosion, and hazard protection through~~
14 ~~elevation, floodproofing, disaster preparedness, hazard mitigation, relocation,~~
15 ~~or other techniques.~~

16 (iii) ~~Require adequate provisions for flood drainage and other~~
17 ~~emergency measures.~~

18 (iv) ~~Require provision of adequate and disaster resistant water and~~
19 ~~wastewater facilities.~~

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

1 ~~(vi) Regulate~~ Regulate all land development in a flood hazard
2 area, ~~river corridor protection area~~, or other hazard area, except for
3 development that is regulated under 10 V.S.A. § 754.

4 (C) Effect on zoning bylaws. Flood hazard or other hazard area
5 bylaws may alter the uses otherwise permitted, prohibited, or conditional in a
6 flood hazard area or other hazard area under a bylaw, as well as the
7 applicability of other provisions of that bylaw. Where a flood hazard bylaw, a
8 hazard area bylaw, or both apply along with any other bylaw, compliance with
9 the flood or other hazard area bylaw shall be prerequisite to the granting of a
10 zoning permit. Where a flood hazard area bylaw or a hazard area bylaw but
11 not a zoning bylaw applies, the flood hazard and other hazard area bylaw shall
12 be administered in the same manner as are zoning bylaws, and a flood hazard
13 area or hazard area permit shall be required for land development covered
14 under the bylaw.

15 (D) Mandatory provisions.

16 (i) Except as provided in subsection (c) of this section, all flood
17 hazard and other hazard area bylaws shall provide that no permit for new
18 construction or substantial improvement shall be granted for a flood hazard or
19 other hazard area until after both the following:

20 (I) ~~A~~ a copy of the application is mailed or delivered by the
21 administrative officer or by the appropriate municipal panel to the Agency of

1 Natural Resources or its designee, which may be done electronically, provided
2 the sender has proof of receipt; and

3 (II) ~~Either~~ either 30 days have elapsed following the mailing or
4 the Agency or its designee delivers comments on the application.

5 (ii) The Agency of Natural Resources may delegate to a qualified
6 representative of a municipality with a flood hazard area bylaw or ordinance or
7 to a qualified representative for a regional planning commission the Agency's
8 authority under this subdivision (a)(2)(D) to review and provide technical
9 comments on a proposed permit for new construction or substantial
10 improvement in a flood hazard area. Comments provided by a representative
11 delegated under this subdivision (a)(2)(D) shall not be binding on a
12 municipality.

13 (b) Ordinances. A municipality may adopt a flood hazard area, ~~river~~
14 ~~corridor protection area~~, or other hazard area regulation that meets the
15 requirements of this section by ordinance under subdivision 2291(25) of this
16 title.

17 * * *

18 Sec. 10. STUDY COMMITTEE ON STATE ADMINISTRATION OF THE
19 NATIONAL FLOOD INSURANCE PROGRAM

20 (a) Creation. There is created the Study Committee on State
21 Administration of the National Flood Insurance Program to review and

1 recommend how to reduce vulnerability to inundation flooding, including how
2 and to what scale to shift responsibility for the administration and enforcement
3 of the National Flood Insurance Program from individual municipalities to the
4 State Department of Environmental Conservation.

5 (b) Membership. The Study Committee on State Administration of the
6 National Flood Insurance Program shall be composed of the following
7 members:

8 (1) two members of the Department of Environmental Conservation
9 Rivers Program, appointed by the Governor;

10 (2) two members of Vermont's Regional Planning Commissions,
11 appointed by the Vermont Association of Planning and Development
12 Agencies; and

13 (3) two members to represent Vermont municipalities, one member
14 from a municipality with a population of 5,000 or more persons, appointed by
15 the Committee on Committees, and one member from a municipality with a
16 population of fewer than 5,000 persons, appointed by the Speaker of the
17 House.

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

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

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

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

8 (4) estimate the staffing needs to effectively administer the National
9 Flood Insurance Program for Vermont’s municipalities;

10 (5) recommend how to phase in a proposed state-administered National
11 Flood Insurance Program; and

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

19 (d) Assistance. For purposes of scheduling meetings, administrative
20 support, legal assistance, and fiscal assistance, the Study Committee shall have
21 the assistance of the Agency of Natural Resources.

1 (e) Report. On or before August 15, 2025, the Study Committee shall
2 submit a written report to the General Assembly with its findings and any
3 recommendations for legislative action. Any recommendation for legislative
4 action shall be as draft legislation.

5 (f) Meetings.

6 (1) The Secretary of Natural Resources or designee shall call the first
7 meeting of the Study Committee.

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

10 (3) A majority of the membership of the Study Committee shall
11 constitute a quorum.

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

13 (g) Compensation and reimbursement. Members of the Study Committee
14 shall be entitled to per diem compensation and reimbursement of expenses as
15 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These
16 payments shall be made from monies appropriated to the General Assembly.

17 Sec. 11. TRANSITION; IMPLEMENTATION; APPROPRIATIONS;

18 POSITIONS

19 (a) The Secretary of Natural Resources shall initiate rulemaking, including
20 pre-rulemaking, for the rules required in Sec. 5 of this act, 10 V.S.A. § 754
21 (river corridor development), not later than July 1, 2025. The rules shall be

1 adopted on or before July 1, 2027.

2 (b) Prior to the effective date of the rules required in Sec. 5 of this act,
3 10 V.S.A. § 754 (river corridor development), the Secretary of Natural
4 Resources shall continue to implement the Vermont Flood Hazard Area and
5 River Corridor Rule as that rule existed on July 1, 2024 for development
6 exempt from municipal regulation in flood hazard areas and relevant river
7 corridors.

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

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

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

1 ~~rulemaking by the panel under section 915 of this title.~~ (a) On or before
2 January 1, 2026, and not less than annually thereafter, the Agency of Natural
3 Resources shall update the Vermont Significant Wetlands Inventory (VSWI)
4 maps. The annual updates to the VSWI shall include integration of
5 georeferenced shapefiles or similar files for all verified delineations performed
6 within the State and submitted to the Agency of Natural Resources as part of a
7 permit application, as well as a wetlands determination issued under section
8 914 of this title and rulemaking conducted pursuant to section 915 of this title.
9 The VSWI layer shall include integration of any additional town specific
10 inventories of otherwise unmapped wetlands performed by consultants on the
11 Agency's Wetland Consultant List if the consultant has presented the map to a
12 municipality or the Agency of Natural Resources.

13 (b) On or before January 1, 2030, the Secretary of Natural Resources shall
14 complete High Quality Wetlands Inventory (NWI) Plus level mapping for all
15 of the tactical basins in the State. The high-quality mapping shall include a
16 ground truthing component, as recommended by the U.S. Fish and Wildlife
17 Service (USFWS). Once all tactical basins are mapped, the Agency shall
18 evaluate the need for NWI Plus level map updates on a five-year cycle,
19 simultaneously with updates to the corresponding tactical basin plan.

1 Sec. 15. 10 V.S.A. §§ 918 and 919 are added to read:

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

3 (a) On or before July 1, 2025, the Secretary of Natural Resources shall
4 amend the Vermont Wetlands Rules pursuant to 3 V.S.A. chapter 25 to clarify
5 that the goal of wetlands regulation and management in the State is the net gain
6 of wetlands to be achieved through protection of existing wetlands and
7 restoration of wetlands that were previously adversely affected. This condition
8 shall not apply to wetland, river, and flood plain restoration projects, including
9 dam removals.

10 (b) The Vermont Wetlands Rules shall prioritize the protection of existing
11 intact wetlands from adverse effects. Where a permitted activity in a wetland
12 will cause more than 5,000 square feet of adverse effects that cannot be
13 avoided, the Secretary shall mandate that the permit applicant restore, enhance,
14 or create wetlands or buffers to compensate for the adverse effects on a
15 wetland. The amount of wetlands to be restored, enhanced, or created shall be
16 calculated, at a minimum, by determining the acreage or square footage of
17 wetlands permanently drained or filled as a result of the permitted activity and
18 multiplying that acreage or square footage by two, to result in ratio of 2:1
19 restoration to wetland loss. Establishment of a buffer zone contiguous to a
20 wetland shall not substitute for the restoration, enhancement, or creation of
21 wetlands. Adverse impacts to wetland buffers shall be compensated for based

1 on the effects of the impact on wetland function.

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

3 (1) Require an applicant for a wetland permit that authorizes adverse
4 impacts to more than 5,000 square feet of wetlands to compensate for those
5 impacts through restoration, enhancement, or creation of wetland resources.

6 (2) Incorporate the net gain rule into requirements for permits issued
7 after September 1, 2025.

8 (3) Establish a set of parameters and restoration ratios applicable to
9 permittee-designed restored wetland restoration projects, including a minimum
10 2:1 ratio of restoration to loss to compensate for permanently filled or drained
11 wetlands. These parameters shall include consideration of the following
12 factors:

13 (A) the existing level of wetland function at the site prior to
14 mitigation or restoration of wetlands;

15 (B) the amount of wetland acreage and wetland function lost as a
16 result of the project;

17 (C) how the wetland acreage and functions will be restored at the
18 proposed compensation site;

19 (D) the length of time before the compensation site will be fully
20 functional;

21 (E) the risk that the compensation project may not succeed;

1 (F) the differences in the location of the adversely affected wetland
2 and the wetland subject to compensation that affect the services and values
3 offered; and

4 (G) the requirement that permittees conduct five years of post-
5 restoration monitoring for the restored wetlands, at which time the Agency can
6 decide if further action is needed.

7 (d) When amending the Vermont Wetlands Rules under this section, the
8 Secretary shall establish a Vermont in-lieu fee (ILF) compensation program for
9 wetlands impacts that may be authorized as compensation for an adverse effect
10 on a wetland when the permittee cannot achieve restoration. The Secretary
11 may implement a Vermont ILF compensation program through agreements
12 with third-party entities such as the U.S. Army Corps of Engineers or
13 environmental organizations, provided that any ILF monetary compensation
14 authorized under the rules shall be expended on restoration, reestablishment,
15 enhancement, or conservation projects within the State at the HUC 8 level of
16 the adversely affected wetland when practicable.

17 § 919. WETLANDS PROGRAM REPORTS

18 (a) On or before April 30, 2025, and annually thereafter, the Secretary of
19 Natural Resources shall submit to the House Committee on Environment and
20 Energy and to the Senate Committee on Natural Resources and Energy a report
21 on annual losses and gains of significant wetlands in the State. The report shall

1 include:

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

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

7 (3) the number of site visits and technical assistance calls conducted by
8 the Agency of Natural Resources, the number of permits processed by the
9 Agency, and any enforcement actions that were taken by the Agency or the
10 Office of the Attorney General in the previous year for violations of this
11 chapter; and

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

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

20 (1) an analysis of historical trends of wetlands, including data analyzing
21 the projects for which wetland permits were issued by county and tactical

1 basin;

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

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

10 Sec. 15a. WETLANDS RULEMAKING; ALLOWED USES

11 As part of the next amendments to the Vermont Wetlands Rules as required
12 under Sec. 15 of this act or otherwise proposed, the Commissioner of
13 Environmental Conservation shall review whether to authorize the following
14 activities as allowed uses within a wetland:

15 (1) relocation of utility lines and poles adjacent to roadsides; and

16 (2) temporary access to wetlands, river, and flood restoration projects
17 that are currently allowed uses under the Rules, provided that the
18 Commissioner shall allow temporary access to wetlands as an allowed use for
19 wetlands, river, and flood restoration projects conducted or initiated prior to
20 January 1, 2025.

1 Sec. 15b. 10 V.S.A. § 1266a is amended to read:

2 § 1266a. DISCHARGES OF PHOSPHORUS

3 (a) No person directly discharging into the drainage basins of Lake
4 Champlain or Lake Memphremagog shall discharge any waste that contains a
5 phosphorus concentration in excess of 0.80 milligrams per liter on a monthly
6 average basis: with the following exceptions:

7 (1) ~~Discharges~~ discharges of less than 200,000 gallons per day,
8 permitted on or before July 1, 1991, ~~shall not be subject to the requirements of~~
9 ~~this subsection;~~

10 (2) ~~Discharges~~ discharges from a municipally owned aerated lagoon
11 type secondary sewage treatment plant in the Lake Memphremagog drainage
12 basin, permitted on or before July 1, 1991 ~~shall not be subject to the~~
13 ~~requirements of this subsection~~ unless the plant is modified to use a technology
14 other than aerated lagoons; and

15 (3) discharges of less than 35,000 gallons per day from a municipally
16 owned secondary sewage treatment plant using recirculating sand filters in the
17 Lake Champlain drainage basin, permitted on or before July 1, 2001 unless the
18 plant is modified to use a technology other than recirculating sand filters.

19 (b) Notwithstanding any provision of subsection (a) of this section to the
20 contrary, the Secretary shall establish effluent phosphorus wasteload
21 allocations or concentration limits within any drainage basin in Vermont, as

1 needed to achieve wasteload allocations in a total maximum daily load
2 document approved by the U.S. Environmental Protection Agency, or as
3 needed to attain compliance with water quality standards adopted by the
4 Secretary pursuant to chapter 47 of this title.

5 (c) [Repealed.]

6 Sec. 16. 10 V.S.A. § 1274(a) is amended to read:

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

19 (1) Enjoin future discharges.

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

1 public good through the inventory, inspection, and evaluation of dams in the
2 State.

3 § 1080. DEFINITIONS

4 As used in this chapter:

5 (1) “Department” means the Department of Environmental
6 Conservation.

7 * * *

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

10 * * *

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

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

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

18 (ii) was partially breached; and

19 (iii) has not been properly removed or mitigated.

20 (C) “Dam” ~~shall~~ does not mean:

21 (i) barriers or structures created by beaver or any other wild

1 animal as that term is defined in section 4001 of this title;

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

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

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

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

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

11 (7) “Federal dam” means:

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

13 (B) a dam subject to a Federal Energy Regulatory Commission
14 license or exemption.

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

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

21 (10) “Dam removal” means all actions needed to eliminate the risk of

1 dam failure-related inundation below the dam and include partial or complete
2 structural removal to the extent that the dam is no longer capable of
3 impounding water, liquid, or sediment.

4 § 1081. JURISDICTION OF DEPARTMENT AND PUBLIC UTILITY
5 COMMISSION

6 (a) Powers and duties. Unless otherwise provided, the powers and duties
7 authorized by this chapter shall be exercised by the Department, ~~except that the~~
8 ~~Public Utility Commission shall exercise those powers and duties over~~
9 ~~nonfederal dams and projects that relate to or are incident to the generation of~~
10 ~~electric energy for public use or as a part of a public utility system of~~
11 Environmental Conservation. Nonfederal dams at which the generation of
12 electric energy is subject to licensing jurisdiction under the Federal Power Act,
13 16 U.S.C. chapter 12, subchapter 1, and the dam structure is regulated
14 separately from electric generation shall ~~not~~ be under the jurisdiction of the
15 ~~Public Utility Commission~~ Department, except to the extent of regulation at
16 those facilities related solely to electric generation under the Federal Power
17 Act.

18 (b) Transfer of jurisdiction. ~~Jurisdiction over a nonfederal dam is~~
19 ~~transferred from the Department to the Public Utility Commission when the~~
20 ~~Public Utility Commission receives an application for a certificate of public~~
21 ~~good for electricity generation at that dam.~~ Jurisdiction over a federal dam is

1 transferred to the Department when the license or exemption for a federal dam
2 expires or is otherwise lost; ~~when a certificate of public good is revoked or~~
3 ~~otherwise lost; or when the Public Utility Commission denies an application~~
4 ~~for a certificate of public good.~~

5 (c) Transfer of records. ~~Upon transfer of jurisdiction as set forth in~~
6 ~~subsection (b) of this section and upon written request, the State agency having~~
7 ~~former jurisdiction over a dam shall transfer copies of all records pertaining to~~
8 ~~the dam to the agency acquiring jurisdiction~~ Upon transfer of jurisdiction of
9 any dam from the Public Utility Commission to the Department, the Public
10 Utility Commission shall transfer copies of all records pertaining to the subject
11 dam, including record drawings, construction drawings, engineering
12 investigations and analyses, photographs, inspection reports, design,
13 permitting, and emergency action planning documents and any other files
14 pertaining to the subject dam, to the Department in digital and hardcopy format
15 acceptable to the Department within 30 days following the jurisdictional
16 transfer.

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

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:

21 (1) the owner or operator of the intake takes an action that requires

1 authorization under this section; or

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

5 § 1083. APPLICATION

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

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

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

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

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

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

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

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.

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

15 ~~(2) For any project subject to its jurisdiction under this chapter, the~~
16 ~~Public Utility Commission shall hold a hearing on the application. The~~
17 ~~purpose of the hearing shall be to determine whether the project serves the~~
18 ~~public good as defined in section 1086 of this title and provides adequately for~~
19 ~~the public safety. The hearing shall be held in a municipality in the vicinity of~~
20 ~~the proposed project and may be consolidated with other hearings, including~~
21 ~~hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be~~

1 ~~given at least 10 days before the hearing to interested persons by posting in the~~
2 ~~municipal offices of the towns in which the project will be completed and by~~
3 ~~publishing in a local newspaper.~~

4 § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

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

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

12 (2) scenic and recreational values;

13 (3) fish and wildlife;

14 (4) forests and forest programs;

15 (5) [Repealed.]

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

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

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

1 (9) the creation of any public benefits;

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

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

4 (12) municipal grand lists and revenues; and

5 (13) ~~public safety; and~~

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

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

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

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

7 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

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

18 § 1089. EMPLOYMENT OF ENGINEER

19 ~~With the approval of the Governor, the State agency having jurisdiction~~
20 ~~may employ an engineer to investigate the property, review the plans and~~
21 ~~specifications, and make such additional investigation as the State agency shall~~

1 ~~deem necessary, and such engineer shall report to the State agency his or her~~
2 ~~findings in respect thereto~~ The Department shall employ engineers to perform
3 the duties required under this chapter to adequately provide for public safety.

4 § 1090. CONSTRUCTION SUPERVISION

5 The construction, alteration, or other action authorized in section 1086 of
6 this title shall be supervised by an engineer employed by the applicant. Upon
7 completion of the authorized project, the engineer shall ~~certify~~ provide
8 confirmation to the ~~agency having jurisdiction~~ Department that the project has
9 been completed in ~~conformance~~ general accordance with the approved plans
10 and specifications and dam order conditions.

11 § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

12 (a) On receipt of a petition signed by ~~no~~ not fewer than ~~ten~~ 10 interested
13 persons or the legislative body of a municipality, the ~~State agency having~~
14 ~~jurisdiction~~ Department shall, or upon its own motion it may, institute
15 investigations by an engineer as described in section 1087 of this title
16 regarding the safety of any existing nonfederal dam or portion of the dam of
17 any size. The ~~agency~~ Department may fix a time and place for hearing and
18 shall give notice in the manner it directs to all interested persons. The engineer
19 shall present ~~his or her~~ the engineer's findings and recommendations at the
20 hearing. After the hearing, if the Department finds that the nonfederal dam or
21 portion of the dam as maintained or operated is unsafe or is a menace to people

1 or property above or below the dam, it shall issue an order directing
2 reconstruction, repair, removal, breaching, draining, or other action it considers
3 necessary to improve the safety of the dam sufficiently to protect life and
4 property as required by the ~~State agency having jurisdiction~~ Department.

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

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

20 § 1099. APPEALS

21 (a) Appeals of any act or decision of the Department under this chapter

1 shall be made in accordance with chapter 220 of this title.

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

4 * * *

5 § 1105. INSPECTION OF DAMS

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

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

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

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

18 (c) Dam safety reports. If a dam inspection report is completed by the
19 ~~State agency having jurisdiction, the agency~~ Department, the Department shall
20 provide the person owning legal title to the dam or the owner of the land on
21 which the dam is located with a copy of the inspection report and shall make

1 all inspection reports available on the Department website for public review.

2 For dams owned by the State, the Department shall provide the inspection
3 report to the designated point of contact for the dam at the State entity owning
4 the dam and make the information available to the public on the Department
5 website.

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

12 § 1106. UNSAFE DAM SAFETY REVOLVING LOAN FUND

13 (a) There is hereby established a special fund to be known as the Vermont
14 ~~Unsafe Dam Safety~~ Revolving Loan Fund that shall be used to provide ~~grants~~
15 ~~and loans to municipalities, nonprofit entities, and private individuals~~ low- or
16 zero-interest loans, including subsidized loans as established under subsection
17 (b) of this section and the rules adopted under section 1110 of this title,

18 pursuant to rules adopted by the Agency of Natural Resources, for the
19 reconstruction, repair, removal, breaching, draining, or other action necessary
20 to reduce the ~~threat~~ risk of a dam ~~or portion of a dam determined to be unsafe~~
21 ~~pursuant to section 1095 of this chapter.~~

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

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

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

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

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

21 (A) The dam must be under the regulatory jurisdiction of the DEC

1 Dam Safety Program, excluding dams owned by the State of Vermont.

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

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

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

13 (E) To be eligible for nonemergency funding, an alternatives analysis
14 of dam repair, rehabilitation, and removal options that considers an evaluation
15 of risk reduction, dam safety and ecological resilience and public benefits
16 considerations, and costs shall be completed, pursuant to the rule adopted by
17 the Department.

18 (F) Under this subdivision (b)(2), only engineering, analysis, design,
19 and construction that result in acceptable risk reduction are eligible for loan
20 subsidy.

21 (c) The Fund created by this section shall be established and held separate

1 and apart from any other funds or monies of the State and shall be used and
2 administered exclusively for the purposes set forth in this section. The funds
3 shall be invested in the same manner as permitted for investment of funds
4 belonging to the State or held in the Treasury. The Fund shall consist of the
5 following:

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

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

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

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

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

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

20 ~~(e)~~(d) The Secretary may bring an action under this subsection or other
21 available State and federal laws against the owner of the dam to seek

1 reimbursement to the Fund for all loans made from the Fund pursuant to this
2 section.

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

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

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

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

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

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

20 § 1107. HAZARD POTENTIAL CLASSIFICATIONS

21 (a) ~~The State agency having jurisdiction over a nonfederal dam listed in the~~

1 ~~Vermont Dam Inventory~~ Department shall assess the hazard potential
2 classification of ~~the dam~~ all nonfederal dams listed in the Vermont Dam
3 Inventory based on the potential loss of human life, property damage, and
4 economic loss that would occur in the event of the failure of the dam. There
5 shall be four hazard potential classifications: high, significant, low, and
6 minimal.

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

10 * * *

11 § 1110. RULEMAKING

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

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

17 (2) standards for:

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

20 (B) operation and maintenance of a dam;

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

- 1 (D) repair, breach, or removal of a dam;
- 2 (E) application for authorization under section 1082 of this title; and
- 3 (F) the development of an emergency action plan for a dam,
- 4 including guidance on how to develop an emergency action plan, the content of
- 5 a plan, and when and how an emergency action plan should be updated;
- 6 (3) criteria for the hazard potential classification of dams in the State;
- 7 (4) a process by which a person owning legal title to a dam or a person
- 8 owning the land on which the dam is located shall register a dam and record
- 9 the existence of the dam in the lands records; ~~and~~
- 10 (5) requirements for the person owning legal title to a dam or the person
- 11 owning the land on which the dam is located to conduct inspections of the
- 12 dam; and
- 13 (6) requirements for access to financing and subsidy from the Dam
- 14 Safety Revolving Loan Fund, including the requirement that an alternatives
- 15 analysis be performed by an engineering consultant hired by either the dam
- 16 owner or the Department.

17 § 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

18 ~~Annually on or before January 1, the Public Utility Commission shall~~

19 ~~submit to the Department updated inventory information from the previous~~

20 ~~calendar year for dams under the jurisdiction of the Public Utility Commission.~~

21 [Repealed.]

1 Sec. 19. 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. 20. 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:

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. 21. [Deleted.]

8 Sec. 22. STUDY COMMITTEE ON DAM EMERGENCY OPERATIONS
9 PLANNING

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

17 (b) Membership. The Study Committee on Dam Emergency Operations
18 Planning shall be composed of the following members:

19 (1) one member of the Department of Environmental Conservation Dam
20 Safety Program, who shall be appointed by the Governor;

21 (2) two members representing regional planning commissions in the

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

2 (3) one member of the Division of Emergency Management, who shall
3 be appointed by the Governor;

4 (4) two legal owners of a dam, one of whom shall own a dam capable of
5 generating electricity, who shall be appointed by the Speaker upon
6 recommendation of the Dam Safety Program of the Department of
7 Environmental Conservation; and

8 (5) one or more emergency management director or incident commander
9 from a municipality with experience in developing and carrying out an
10 emergency operation plan.

11 (c) Powers and duties. The Study Committee on Dam Emergency
12 Operations Planning shall:

13 (1) identify those dams in the State that are classified as high-hazard
14 dams;

15 (2) summarize the existing responsibilities of individual municipalities
16 to prepare for and implement existing emergency response plans, including
17 how those responsibilities are funded and whether placing responsibility with
18 individual municipalities is appropriate;

19 (3) identify the regional planning commissions in which a dam
20 identified under subdivision (1) of this subsection are located;

21 (4) recommend the content for a regional emergency action plan for

1 each dam identified under subdivision (1) of this subsection, including
2 identifying necessary evacuations, how evacuees will be sheltered and
3 provided care, and the location of emergency management centers for each
4 dam;

5 (5) recommend who should prepare a regional emergency action plan
6 for each dam identified under subdivision (1) of this subsection, including the
7 basis for the recommendation and the role that regional planning commissions
8 should play in the preparation of the plans;

9 (6) estimate the cost of the production of regional emergency action
10 plans for dams; and

11 (7) estimate the cost for regional planning commissions and
12 municipalities to implement an emergency action plan, including a
13 recommended source of the funding.

14 (d) Assistance. For purposes of scheduling meetings, administrative
15 support, legal assistance, and fiscal assistance, the Study Committee shall have
16 the assistance of the Agency of Natural Resources.

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

21 (f) Meetings.

1 (1) The Secretary of Natural Resources or designee shall call the first
2 meeting of the Study Committee.

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

5 (3) A majority of the membership of the Study Committee shall
6 constitute a quorum.

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

8 (g) Compensation and reimbursement. Members of the Study Committee
9 shall be entitled to per diem compensation and reimbursement of expenses as
10 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These
11 payments shall be made from monies appropriated to the General Assembly.

12 Sec. 23. DETERMINATION OF FEDERAL ENERGY REGULATORY
13 COMMISSION (FERC) JURISDICTION

14 Nonfederal hydroelectric projects without a valid pre-1920 license may be
15 subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction
16 and may require a license from FERC to operate. By July 31, 2025, the
17 Department of Environmental Conservation, in coordination with the Public
18 Utility Commission, shall file petitions for a Declaratory Order from FERC to
19 determine whether projects currently under the Public Utility Commission's
20 jurisdiction fall under FERC's hydroelectric licensing jurisdiction. The Public
21 Utility Commission shall provide notice to the dam owner when a petition is

1 filed with FERC.

2 Sec. 24. TRANSITION; DAMS

3 (a) On or before July 1, 2028, the Department of Environmental
4 Conservation shall assume jurisdiction under 10 V.S.A. chapter 43 of all dams
5 within the jurisdiction of the Public Utility Commission as of July 1, 2024.

6 (b) On or before January 15, 2026 and annually thereafter until the
7 Department of Environmental Conservation has assumed jurisdiction under 10
8 V.S.A. chapter 43 over all dams from the Public Utility Commission, the
9 Department of Environmental Conservation shall report to the Senate
10 Committee on Natural Resources and Energy and the House Committee on
11 Environment and Energy regarding progress in preparation for transfer of
12 jurisdiction of the dams from the Public Utility Commission to the Department
13 of Environmental Conservation.

14 (c) Notwithstanding the effective date of Sec. 18 of this act (transfer of dam
15 safety jurisdiction), the Public Utility Commission shall retain jurisdiction over
16 dams within its control as of July 1, 2024 until the Department of
17 Environmental Conservation assumes the jurisdiction of each dam as required
18 by subsection (a) of this section. While the Public Utility Commission
19 continues to exercise authority under 10 V.S.A. chapter 43, as it existed on
20 June 30, 2024, the Public Utility Commission shall apply the dam design
21 standard rules as adopted by the Department of Environmental Conservation.

1 with regional planning commissions and the Natural Resources Conservation
2 Council, shall revise all 15 basin plans and update the basin plans on a five-
3 year rotating basis. On or before January 15 of each year, the Secretary shall
4 report to the House Committees on Agriculture, Food Resiliency, and Forestry
5 and on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and to
6 the Senate Committees on Agriculture and on Natural Resources and Energy
7 regarding the progress made and difficulties encountered in revising basin
8 plans. The report shall include a summary of basin planning activities in the
9 previous calendar year, a schedule for the production of basin plans in the
10 subsequent calendar year, and a summary of actions to be taken over the
11 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of
12 required reports) shall not apply to the report to be made under this subsection.

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

14 (A) identify waters that should be reclassified outstanding resource
15 waters or that should have one or more uses reclassified under section 1252 of
16 this title;

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

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

20 * * *

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

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

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

6 * * * Expanded Polystyrene Foam * * *

7 Sec. 26. 10 V.S.A. chapter 47, subchapter 2B is added to read:

8 Subchapter 2B. Expanded Polystyrene Foam

9 § 1321. DEFINITIONS

10 As used in this subchapter:

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

15 (2) “Dock” means an unenclosed structure secured to land, land under
16 waters, or a mooring or a floating structure that is used for mooring boats or
17 for recreational activities, such as a swimming, fishing, or sunbathing platform.

18 A dock includes a structure that is partially enclosed or has two or more levels.

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

21 (4) “Expanded polystyrene foam” means a thermoplastic petrochemical

1 material utilizing the styrene monomer that is processed according to multiple
2 techniques, including fusion of polymer spheres, injection molding, form
3 molding, and extrusion-blow molding.

4 (5) "Floating structure" means a structure constructed on or in a water of
5 the State that is supported by flotation and is secured in place by a piling or
6 mooring anchor, including boathouses, fueling structures, floating homes,
7 marinas, walkways, or boarding platforms.

8 (6) "Mooring anchor" means any anchor or weight that is designed to:

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

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

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

13 § 1322. INSTALLATION, REPAIR, REMOVAL, AND SALE OF BUOYS,
14 DOCKS, OR FLOATING STRUCTURES

15 (a) Encapsulation required. Expanded polystyrene foam used for flotation,
16 including buoys, docks, or floating structures, shall be encapsulated by a
17 protective covering or shall be designed to prevent the expanded polystyrene
18 foam from disintegrating into the water.

19 (b) Prohibition; unencapsulated polystyrene and open-cell (beaded)
20 polystyrene; repair. No person shall use unencapsulated polystyrene or open-
21 cell (beaded) polystyrene for the installation of a new buoy, dock, or floating

1 structure on the waters of the State. Unencapsulated polystyrene materials and
2 open-cell beaded polystyrene shall not be used for the repair of buoys, docks,
3 or floating structures on waters of the State.

4 (c) Methods of encapsulation.

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

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

16 (d) Disposal. Irreparable encapsulated polystyrene, unencapsulated
17 polystyrene, and irreparable encapsulated open-cell (beaded) polystyrene used
18 for flotation, including buoys, docks, or floating structures, shall be properly
19 disposed of in an approved manner.

20 (e) Sale or distribution. No person shall sell, offer for sale, or otherwise
21 distribute for compensation within the State dock floats, mooring buoys, or

1 anchor or navigation markers made, in whole or in part, from expanded
2 polystyrene foam that is:

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

4 or

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

7 § 1323. NUISANCE

8 The use of unencapsulated polystyrene as a flotation device in waters of the
9 State, including in any dock system, float, mooring system, or buoy, is
10 declared a nuisance and public health hazard and may be prosecuted as
11 provided in the Vermont Revised Statutes.

12 § 1324. RULEMAKING

13 The Secretary may adopt rules to implement the requirements of this
14 subchapter.

15 Sec. 27. [Deleted.]

16 * * * Report on Waiver of Permit Fees * * *

17 Sec. 28. REPORT ON WAIVER OF PERMIT FEES

18 (a)(1) The Secretary of Natural Resources shall produce a report on
19 whether and how to establish criteria for waiving, reducing, or mitigating
20 Agency of Natural Resources' permit fees for persons of low income or other
21 criteria.

1 (2) The Chair of the Natural Resources Board shall produce a report on
2 whether and how to establish criteria for waiving, reducing, or mitigating Act
3 250 permit fees for persons of low income or other criteria.

4 (b) The reports required under subsection (a) of this section shall include:

5 (1) a recommendation of whether the State should establish criteria or a
6 methodology for waiving, reducing, or mitigating permit fees for persons of
7 low income or other criteria; and

8 (2) if a report recommends waiver, reduction, or mitigation under
9 subdivision (1) of this section, what the criteria for waiver, reduction, or
10 mitigation should be and whether the fees should be reduced or entirely
11 waived.

12 (c) On or before December 15, 2024, the Secretary of Natural Resources
13 and the Chair of the Natural Resources Board shall submit to the House
14 Committees on Ways and Means and on Environment and Energy and the
15 Senate Committees on Finance and on Natural Resources and Energy the
16 reports required under subsection (a) of this section.

17 * * * Effective Dates * * *

18 Sec. 29. EFFECTIVE DATES

19 (a) This section and Secs. 19 (dam registration report), 20 (dam design
20 standard rules), and 23 (FERC petition) shall take effect on passage.

21 (b) All other sections shall take effect July 1, 2024, except that:

- 1 (1) Secs. 6a, 7, 8, 8a, and 9 (conforming amendments to municipal river
2 corridor planning) shall take effect on January 1, 2028, except that in Sec. 9,
3 24 V.S.A. § 4424(a)(2)(B)(i) (municipal compliance with the State Flood
4 Hazard Area Standards) shall take effect on January 1, 2026;
- 5 (2) in Sec. 18, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund)
6 shall take effect on passage;
- 7 (3) under Sec. 25 (basin planning), the requirement shall be effective for
8 updated tactical basin plans that commence on or after January 1, 2025; and
- 9 (4) in Sec. 26 (expanded polystyrene foam requirements), 10 V.S.A.
10 § 1324 (ANR rulemaking) shall take effect on passage.