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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

1 Administration's National Centers for Environmental Information, average  
2 annual damages from flooding and flood-related disasters between 1980 and  
3 2023 exceeds 30 million, conservatively.

4 (4) According to the Department of Environmental Conservation, 70 to  
5 80 percent of all flood-related damages occur within Vermont's river corridors.

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

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

14 (7) The State, as recommended in the initial Vermont Climate Action  
15 Plan of 2021, should adopt legislation that would authorize the Agency of  
16 Natural Resources to revise the Vermont Flood Hazard Area and River  
17 Corridor rule to provide the Agency with delegable, statewide jurisdiction and  
18 permitting authority for new development taking place in mapped river  
19 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 shall amend by procedure the statewide River Corridor Base  
6             Map to identify areas suitable for development that are located within existing  
7             settlements and that will not cause or contribute to increases in fluvial erosion  
8             hazards.

9             (b) Beginning on January 1, 2025 and ending on January 1, 2027, the  
10            Department of Environmental Conservation shall conduct an education and  
11            outreach program to consult with and collect input from municipalities,  
12            environmental justice focus populations, the Environmental Justice Advisory  
13            Council, businesses, property owners, farmers, and other members of the  
14            public regarding how State permitting of development in mapped river  
15            corridors will be implemented, including potential restrictions on the use of  
16            land within mapped river corridors. The Department shall develop educational  
17            materials for the public as part of its charge under this section. The  
18            Department shall collect input from the public regarding the permitting of  
19            development in mapped river corridors as proposed by this act. On or before  
20            January 15, 2027 and until permitting of development in mapped river  
21            corridors begins under 10 V.S.A. §754, the Department shall submit to the

1 Senate Committee on Natural Resources and Energy, the House Committee on  
2 Environment and Energy, and the Environmental Justice Advisory Council a  
3 report that shall include:

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

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

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

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

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

16 § 752. DEFINITIONS

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

18 \* \* \*

19 (2) “Development,” for the purposes of flood hazard area management  
20 and regulation, ~~shall have~~ has the same meaning as “development” under  
21 44 C.F.R. § 59.1.



1 ~~and enforcement of permits applicable to:~~

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

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

9 (A) all development within a mapped river corridor in the State; and

10 (B) for development exempt from municipal regulation in flood  
11 hazard areas.

12 \* \* \*

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

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

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

20 (3) establish requirements for the permitting of development within the  
21 mapped river corridors of the State;

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

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

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

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

20           ~~(d)~~(c) General permit. The rules authorized by this section may establish  
21           requirements for a general permit to implement the requirements of this

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

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

17 ~~(f)~~(e) Permit requirement. A Beginning on January 1, 2028, a person shall  
18 not commence or conduct a use development exempt from municipal  
19 regulation in a flood hazard area or commence or conduct any development in  
20 a mapped river corridor in a municipality that has adopted a flood hazard area  
21 bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of

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

7 ~~(g)~~(f) Delegation.

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

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

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

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

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

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

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

17 (a) State flood hazard area standards.

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

21 (2) The rules shall contain flood hazard area standards that meet or

1 exceed the minimum standards of the NFIP by reducing flood risk to new  
2 development and ensuring new development does not create adverse impacts  
3 to adjacent preexisting development.

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

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

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

18 (~~b~~)(c) Model flood hazard area bylaw or ordinance. The Secretary shall  
19 create and make available to municipalities a model flood hazard area bylaw or  
20 ordinance for potential adoption by municipalities pursuant to 24 V.S.A.  
21 chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth

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

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

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

18 (14) To encourage flood resilient communities.

19 (A) New development in identified flood hazard, fluvial erosion, and  
20 river corridor protection areas should be avoided. If new development is to be  
21 built in such areas, it should not exacerbate flooding and fluvial erosion and

1 should meet or exceed the statewide minimum flood hazard area standards  
2 established by rule by the Agency of Natural Resources.

3 \* \* \*

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

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

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

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

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

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

2 § 4424. SHORELANDS; ~~RIVER CORRIDOR PROTECTION AREAS;~~  
3 FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING  
4 BYLAWS

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

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

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

16 (A) Purposes.

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

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

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

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

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

16 (i) ~~Contain standards and criteria that prohibit the placement of~~  
17 ~~damaging obstructions or structures, the use and storage of hazardous or~~  
18 ~~radioactive materials, and practices that are known to further exacerbate~~  
19 ~~hazardous or unstable natural conditions~~ Require compliance with the State  
20 Flood Hazard Area Standards established by rule pursuant to 10 V.S.A.  
21 § 755(c) and meet all additional requirements under the National Flood

1 Insurance Program as set forth in 44 C.F.R. § 60.3.

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

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

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

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

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

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

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

4 (D) Mandatory provisions.

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

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

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

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

1 municipality.

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

6 \* \* \*

7 Sec. 10. STUDY COMMITTEE ON STATE ADMINISTRATION OF THE  
8 NATIONAL FLOOD INSURANCE PROGRAM

9 (a) Creation. There is created the Study Committee on State  
10 Administration of the National Flood Insurance Program to review and  
11 recommend how to reduce vulnerability to inundation flooding, including how  
12 and to what scale to shift responsibility for the administration and enforcement  
13 of the National Flood Insurance Program from individual municipalities to the  
14 State Department of Environmental Conservation.

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

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

20 (2) two members of Vermont's Regional Planning Commissions,  
21 appointed by the Vermont Association of Planning and Development

1 Agencies; and

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

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

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

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

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

18 (4) estimate the staffing needs to effectively administer the National  
19 Flood Insurance Program for Vermont's municipalities;

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

1           (6) propose to the General Assembly funding sources to support all  
2           potential administrative costs for a proposed state-administered National Flood  
3           Insurance Program, including the permanent full-time classified staff positions  
4           in the Department of Environmental Conservation's Rivers Program needed to  
5           establish a flood hazard area permitting program and a permitting fee for  
6           applications to the Department of Environmental Conservation's Rivers  
7           Program and other potential funding sources.

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

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

15           (f) Meetings.

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

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

20           (3) A majority of the membership of the Study Committee shall  
21           constitute a quorum.

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

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

6           Sec. 11. TRANSITION; IMPLEMENTATION; APPROPRIATIONS;

7                               POSITIONS

8           (a) The Secretary of Natural Resources shall initiate rulemaking, including  
9           pre-rulemaking, for the rules required in Sec. 5 of this act, 10 V.S.A. § 754  
10           (river corridor development), not later than July 1, 2025. The rules shall be  
11           adopted on or before July 1, 2027.

12           (b) Prior to the effective date of the rules required in Sec. 5 of this act,  
13           10 V.S.A. § 754 (river corridor development), the Secretary of Natural  
14           Resources shall continue to implement the Vermont Flood Hazard Area and  
15           River Corridor Rule as that rule existed on July 1, 2024 for development  
16           exempt from municipal regulation in flood hazard areas and relevant river  
17           corridors.

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



1 water resources and wetlands should have a net environmental benefit to the  
2 State.

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

4 (13) “Dam removal” has the same meaning as in section 1080 of this  
5 title.

6 Sec. 14. 10 V.S.A. § 916 is amended to read:

7 § 916. ~~REVISION~~ UPDATE OF VERMONT SIGNIFICANT WETLANDS  
8 INVENTORY MAPS

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

1 municipality or the Agency of Natural Resources.

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

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

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

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

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

1 or create wetlands or buffers to compensate for the adverse effects on a  
2 wetland. The amount of wetlands to be restored, enhanced, or created shall be  
3 calculated, at a minimum, by determining the acreage or square footage of  
4 wetlands permanently drained or filled as a result of the permitted activity and  
5 multiplying that acreage or square footage by two, to result in ratio of 2:1  
6 restoration to wetland loss. Establishment of a buffer zone contiguous to a  
7 wetland shall not substitute for the restoration, enhancement, or creation of  
8 wetlands. Adverse impacts to wetland buffers shall be compensated for based  
9 on the effects of the impact on wetland function.

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

11 (1) Require an applicant for a wetland permit that authorizes adverse  
12 impacts to more than 5,000 square feet of wetlands to compensate for those  
13 impacts through restoration, enhancement, or creation of wetland resources.  
14 Wetland, river, and floodplain restoration projects, including dam removal,  
15 shall be an allowed use within a wetland under this rule.

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

18 (3) Establish a set of parameters and restoration ratios applicable to  
19 permittee-designed restored wetland restoration projects, including a minimum  
20 2:1 ratio of restoration to loss to compensate for permanently filled or drained  
21 wetlands. These parameters shall include consideration of the following

1 factors:

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

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

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

8 (D) the length of time before the compensation site will be fully  
9 functional;

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

11 (F) the differences in the location of the adversely affected wetland  
12 and the wetland subject to compensation that affect the services and values  
13 offered; and

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

17 (d) When amending the Vermont Wetlands Rules under this section, the  
18 Secretary shall establish a Vermont in-lieu fee (ILF) compensation program for  
19 wetlands impacts that may be authorized as compensation for an adverse effect  
20 on a wetland when the permittee cannot achieve restoration. The Secretary  
21 may implement a Vermont ILF compensation program through agreements

1 with third-party entities such as the U.S. Army Corps of Engineers or  
2 environmental organizations, provided that any ILF monetary compensation  
3 authorized under the rules shall be expended on restoration, reestablishment,  
4 enhancement, or conservation projects within the State at the HUC 8 level of  
5 the adversely affected wetland when practicable.

6 § 919. WETLANDS PROGRAM REPORTS

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

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

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

17 (3) the number of site visits and technical assistance calls conducted by  
18 the Agency of Natural Resources, the number of permits processed by the  
19 Agency, and any enforcement actions that were taken by the Agency or the  
20 Office of the Attorney General in the previous year for violations of this  
21 chapter; and

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

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

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

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

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

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

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

14 (1) Enjoin future discharges.

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

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

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





1 is regulated by the Agency of Natural Resources under chapter 47 of this title;

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

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

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

7 (7) “Federal dam” means:

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

9 (B) a dam subject to a Federal Energy Regulatory Commission  
10 license or exemption.

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

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

17 (10) “Dam removal” means all actions needed to eliminate the risk of  
18 dam failure-related inundation below the dam and include partial or complete  
19 structural removal to the extent that the dam is no longer capable of  
20 impounding water, liquid, or sediment.

1 § 1081. JURISDICTION OF DEPARTMENT ~~AND PUBLIC UTILITY~~  
2 COMMISSION

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

15 (b) Transfer of jurisdiction. ~~Jurisdiction over a nonfederal dam is~~  
16 ~~transferred from the Department to the Public Utility Commission when the~~  
17 ~~Public Utility Commission receives an application for a certificate of public~~  
18 ~~good for electricity generation at that dam.~~ Jurisdiction over a federal dam is  
19 transferred to the Department when the license or exemption for a federal dam  
20 expires or is otherwise lost; ~~when a certificate of public good is revoked or~~  
21 ~~otherwise lost; or when the Public Utility Commission denies an application~~

1 ~~for a certificate of public good.~~

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

14 § 1082. AUTHORIZATION

15 (a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or  
16 otherwise alter any nonfederal dam, pond, or impoundment or other structure  
17 that is or will be capable of impounding more than 500,000 cubic feet of water  
18 or other liquid after construction or alteration, or remove, breach, or otherwise  
19 lessen the capacity of an existing nonfederal dam that is or was capable of  
20 impounding more than 500,000 cubic feet within or along the borders of this  
21 State where land in this State is proposed to be overflowed, or at the outlet of

1 any body of water within this State, unless authorized by the ~~State agency~~  
2 ~~having jurisdiction so to do~~ Department, provided that an application for  
3 activities that require authorization under 30 V.S.A. § 248 also shall be  
4 approved by the Public Utility Commission. However, in the matter of flood  
5 control projects where cooperation with the federal government is provided for  
6 by the provisions of section 1100 of this title, that section shall control.

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

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

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

20 (2) the Department issues an order under section 1095 of this title  
21 directing reconstruction, repair, removal, breaching, draining, or other action it

1 considers necessary to improve the safety of the dam.

2 § 1083. APPLICATION

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

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

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

10 (3) the plans and specifications to be followed in the construction,  
11 remodeling, reconstruction, altering, lowering, raising, removal, breaching, or  
12 adding to;

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

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

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

18 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

19 The Commissioner of Fish and Wildlife shall investigate the potential  
20 effects on fish and wildlife habitats of any proposal subject to section 1082 of  
21 this title and shall certify the results to the ~~State agency having jurisdiction~~

1 Department prior to any hearing or meeting relating to the determination of  
2 public good and public safety.

3 § 1085. NOTICE OF APPLICATION

4 Upon receipt of the application required by section 1082 of this title, the  
5 ~~State agency having jurisdiction~~ Department shall give notice to the legislative  
6 body of each municipality in which the dam is located and to all interested  
7 persons. The Department shall provide notice of and an opportunity for public  
8 comment in accordance with chapter 170 of this title.

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

11 ~~(2) For any project subject to its jurisdiction under this chapter, the~~  
12 ~~Public Utility Commission shall hold a hearing on the application. The~~  
13 ~~purpose of the hearing shall be to determine whether the project serves the~~  
14 ~~public good as defined in section 1086 of this title and provides adequately for~~  
15 ~~the public safety. The hearing shall be held in a municipality in the vicinity of~~  
16 ~~the proposed project and may be consolidated with other hearings, including~~  
17 ~~hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be~~  
18 ~~given at least 10 days before the hearing to interested persons by posting in the~~  
19 ~~municipal offices of the towns in which the project will be completed and by~~  
20 ~~publishing in a local newspaper.~~

1 § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

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

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

9 (2) scenic and recreational values;

10 (3) fish and wildlife;

11 (4) forests and forest programs;

12 (5) [Repealed.]

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

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

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

19 (9) the creation of any public benefits;

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

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

1           (12) municipal grand lists and revenues; and

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

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

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

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

19           (d) In the case of a proposed removal of a dam that is under the jurisdiction  
20 of the Department and that formerly related to or was incident to the generation  
21 of electric energy but that was not subject to a memorandum of understanding

1 dated before January 1, 2006 relating to its removal, the Department shall  
2 consult with the Department of Public Service regarding the potential for and  
3 value of future power production at the site.

4 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

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

15 § 1089. EMPLOYMENT OF ENGINEER

16 ~~With the approval of the Governor, the State agency having jurisdiction~~  
17 ~~may employ an engineer to investigate the property, review the plans and~~  
18 ~~specifications, and make such additional investigation as the State agency shall~~  
19 ~~deem necessary, and such engineer shall report to the State agency his or her~~  
20 ~~findings in respect thereto~~ The Department shall employ engineers to perform  
21 the duties required under this chapter to adequately provide for public safety.

1 § 1090. CONSTRUCTION SUPERVISION

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

8 § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

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

1 property as required by the ~~State agency having jurisdiction~~ Department.

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

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

17 § 1099. APPEALS

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

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

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§ 1105. INSPECTION OF DAMS

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

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

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

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

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

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

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

9 § 1106. ~~UNSAFE DAM~~ SAFETY REVOLVING LOAN FUND

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

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

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

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

8                   (B) The dam must be in need of critical time-sensitive safety or risk  
9                   reduction measures in order to protect public safety and property, or be a dam  
10                  found to be unsafe or a menace to public safety under section 1095 of this title.

11                  The Dam Safety Program shall be able to access the fund on behalf of owners  
12                  in cases of emergency, immediate need, or in the case of unwilling or unable  
13                  dam owners.

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

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

20                   (B) The dam must be classified as a significant or high-hazard  
21                   potential dam and in fair, poor, or unsatisfactory condition based on the last

1 periodic or comprehensive inspection.

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

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

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

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

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

1 belonging to the State or held in the Treasury. The Fund shall consist of the  
2 following:

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

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

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

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

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

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

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

21 (e)(1) Annually, on or before January 31, the Department shall report to the

1 House Committee on Environment and Energy and the Senate Committee on  
2 Natural Resources and Energy regarding operation and administration of the  
3 Dam Safety Program. The report shall include:

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

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

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

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

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

17 § 1107. HAZARD POTENTIAL CLASSIFICATIONS

18 (a) ~~The State agency having jurisdiction over a nonfederal dam listed in the~~  
19 ~~Vermont Dam Inventory~~ Department shall assess the hazard potential  
20 classification of ~~the dam~~ all nonfederal dams listed in the Vermont Dam  
21 Inventory based on the potential loss of human life, property damage, and

1 economic loss that would occur in the event of the failure of the dam. There  
2 shall be four hazard potential classifications: high, significant, low, and  
3 minimal.

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

7 \* \* \*

8 § 1110. RULEMAKING

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

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

14 (2) standards for:

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

17 (B) operation and maintenance of a dam;

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

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

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

21 (F) the development of an emergency action plan for a dam,

1 including guidance on how to develop an emergency action plan, the content of  
2 a plan, and when and how an emergency action plan should be updated;

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

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

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

10 (6) requirements for access to financing and subsidy from the Dam  
11 Safety Revolving Loan Fund, including the requirement that an alternatives  
12 analysis be performed by an engineering consultant hired by either the dam  
13 owner or the Department.

14 § 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

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

18 [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  
9           Committee shall be entitled to per diem compensation and reimbursement of  
10           expenses as permitted under 32 V.S.A. § 1010 for not more than eight  
11           meetings. These payments shall be made from monies appropriated to the  
12           General Assembly.

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

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

1 Utility Commission shall provide notice to the dam owner when a petition is  
2 filed with FERC.

3 Sec. 24. TRANSITION; DAMS

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

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

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

1 standard rules as adopted by the Department of Environmental Conservation.

2 (d) The rulemaking required under Sec. 18 (dam safety transfer) of this act  
3 under 10 V.S.A. § 1110(6) shall be completed on or before July 1, 2027.

4 (e) Funding from the Dam Safety Revolving Fund, as amended by Sec. 18  
5 of this act (dam safety transfer) shall be available for nonemergency use upon  
6 the completion of rulemaking required under 10 V.S.A. §1110 (6) and (7).

7 \* \* \* Basin Planning \* \* \*

8 Sec. 25. 10 V.S.A. § 1253(d) is amended to read:

9 (d)(1) Through the process of basin planning, the Secretary shall determine  
10 what degree of water quality and classification should be obtained and  
11 maintained for those waters not classified by the Board before 1981 following  
12 the procedures in sections 1254 and 1258 of this title. Those waters shall be  
13 classified in the public interest. The Secretary shall prepare and maintain an  
14 overall surface water management plan to assure that the State water quality  
15 standards are met in all State waters. The surface water management plan shall  
16 include a schedule for updating the basin plans. The Secretary, in consultation  
17 with regional planning commissions and the Natural Resources Conservation  
18 Council, shall revise all 15 basin plans and update the basin plans on a five-  
19 year rotating basis. On or before January 15 of each year, the Secretary shall  
20 report to the House Committees on Agriculture, Food Resiliency, and Forestry  
21 and on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and to

1 the Senate Committees on Agriculture and on Natural Resources and Energy  
2 regarding the progress made and difficulties encountered in revising basin  
3 plans. The report shall include a summary of basin planning activities in the  
4 previous calendar year, a schedule for the production of basin plans in the  
5 subsequent calendar year, and a summary of actions to be taken over the  
6 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of  
7 required reports) shall not apply to the report to be made under this subsection.

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

9 (A) identify waters that should be reclassified outstanding resource  
10 waters or that should have one or more uses reclassified under section 1252 of  
11 this title;

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

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

15 \* \* \*

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

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

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

1                                   \* \* \* Expanded Polystyrene Foam \* \* \*

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

3                                   Subchapter 2B. Expanded Polystyrene Foam

4           § 1321. DEFINITIONS

5           As used in this subchapter:

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

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

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

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

20                   (5) “Floating structure” means a structure constructed on or in a water of  
21                   the State that is supported by flotation and is secured in place by a piling or

1 mooring anchor, including boathouses, fueling structures, floating homes,  
2 marinas, walkways, or boarding platforms.

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

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

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

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

8 § 1322. INSTALLATION, REPAIR, REMOVAL, AND SALE OF BUOYS,  
9 DOCKS, OR FLOATING STRUCTURES

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

14 (b) Prohibition; unencapsulated polystyrene and open-cell (beaded)  
15 polystyrene; repair. No person shall use unencapsulated polystyrene or open-  
16 cell (beaded) polystyrene for the installation of a new buoy, dock, or floating  
17 structure on the waters of the State. Unencapsulated polystyrene materials and  
18 open-cell beaded polystyrene shall not be used for the repair of buoys, docks,  
19 or floating structures on waters of the State.

20 (c) Methods of encapsulation.

21 (1) Encapsulation of a buoy, dock, or floating structure required under

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

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

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

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

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

20 or

21 (2) open-cell (beaded) polystyrene, including materials that are

1 encapsulated and unencapsulated.

2 § 1323. NUISANCE

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

7 § 1324. RULEMAKING

8 The Secretary may adopt rules to implement the requirements of this  
9 subchapter.

10 Sec. 27. [Deleted.]

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

12 Sec. 28. STUDY COMMITTEE ON ENROLLMENT OF FLOODPLAIN

13 MANAGEMENT LAND IN USE VALUE APPRAISAL; REPORT

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

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

20 (1) the Director of Property Valuation and Review or designee;

21 (2) the Director of the Rivers Program within the Watershed

1 Management Division at the Department of Environmental Conservation or  
2 designee;

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

4 (4) a member of the Current Use Advisory Board, who shall be  
5 appointed by the Speaker of the House; and

6 (5) a member of a statewide environmental organization, who shall be  
7 appointed by the Committee on Committees.

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

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

13 (2) if the Study Committee recommends that real property that provides  
14 flood mitigation or flood resilience services should be allowed to enroll in the  
15 UVA Program, what should be the criteria for enrollment, what should be the  
16 use value rate for qualifying enrolled real property, and what should be the  
17 timeline for enrollment.

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

20 (e) Report. On or before January 15, 2025, the Study Committee shall  
21 submit a written report to the Senate Committees on Finance and on Natural

1 Resources and Energy and the House Committees on Ways and Means and on  
2 Environment and Energy with its findings and any recommendations for  
3 legislative action, including proposed legislative language.

4 (f) Meetings.

5 (1) The Director of Property Valuation and Review or designee shall  
6 call the first meeting of the Study Committee to occur on or before September  
7 1, 2025.

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

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

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

12 (g) Compensation and reimbursement.

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

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

