

1 TO THE HONORABLE SENATE:

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

7 * * * Short Title * * *

8 Sec. 1. SHORT TITLE

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

10 * * * Development in River Corridors * * *

11 Sec. 2. FINDINGS

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

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

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

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

21 and

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

1 (3) According to the National Oceanic and Atmospheric
2 Administration’s National Centers for Environmental Information, average
3 annual damages from flooding and flood-related disasters between 1980 and
4 2023 exceeds 30 million, conservatively.

5 (4) According to the Department of Environmental Conservation, 70 to
6 80 percent of all flood-related damages occur within Vermont’s river corridors.

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

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

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

21 Sec. 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION;

22 RIVER CORRIDOR BASE MAP; INFILL MAPPING;

1 EDUCATION AND OUTREACH

2 (a) On or before January 1, 2026, the Department of Environmental
3 Conservation shall amend by procedure the statewide River Corridor Base
4 Map to identify areas suitable for development that are located within existing
5 settlements and that will not cause or contribute to increases in fluvial erosion
6 hazards.

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

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

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

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

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

12 (c) In addition to other funds appropriated to the Agency of Natural
13 Resources in fiscal year 2025:

14 (1) the amount of \$900,000.00 shall be appropriated from the General
15 Fund for six new, full-time positions to conduct infill and redevelopment
16 mapping of mapped river corridors under subsection (a) of this section, to
17 conduct the education and outreach required under subsection (b) of this
18 section, and to conduct the rulemaking and permitting required under Sec. 5 of
19 this act; and

20 (2) the amount of \$225,000.00 is appropriated from the General Fund
21 for the purpose of contracting costs necessary to implement the mapping,

1 education and outreach, rulemaking, and permitting required under this section
2 and Sec. 5 of this act.

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

4 § 752. DEFINITIONS

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

6 * * *

7 (2) “Development,” for the purposes of flood hazard area management
8 and regulation, ~~shall have~~ has the same meaning as “development” under
9 44 C.F.R. § 59.1.

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

12 * * *

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

16 * * *

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

19 (14) “Mapped river corridor” means a river corridor drawn and adopted
20 by the Secretary of Natural Resources as part of the statewide River Corridor
21 Base Map Layer in accordance with the Flood Hazard Area and River Corridor

1 Protection Procedure for rivers and streams with a watershed area greater than
2 two square miles.

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

4 § 754. ~~FLOOD HAZARD AREA RULES ; USES EXEMPT FROM~~
5 ~~MUNICIPAL REGULATION~~ MAPPED RIVER CORRIDOR
6 RULES

7 (a) Rulemaking authority.

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

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

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

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

19 (B) for development exempt from municipal regulation in flood
20 hazard areas.

21 * * *

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

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

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

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

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

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

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

20 ~~(e)(7) Discretionary rulemaking. The rules required under this section may~~
21 establish requirements that exceed the requirements of the National Flood
22 Insurance Program for ~~uses~~ development exempt from municipal regulation in

1 flood hazard areas, including requirements for the maintenance of existing
2 native riparian vegetation, provided that any rules adopted under this
3 subsection that exceed the minimum requirements of the National Flood
4 Insurance Program shall be designed to prevent or limit a risk of harm to life,
5 property, or infrastructure from flooding.

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

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

1 the regional planning commissions; municipal interests; and representatives of
2 municipal associations.

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

14 ~~(g)~~(f) Delegation.

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

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

1 (3) Prior to entering a memorandum of understanding, the Secretary
2 shall post the proposed memorandum of understanding on its website for 30
3 days for notice and comment. When the memorandum of understanding is
4 posted, it shall include a summary of the proposed memorandum; the name,
5 telephone number, and address of a person able to answer questions and
6 receive comments on the proposal; and the deadline for receiving comments.
7 A final copy of a memorandum of understanding entered into under this
8 section shall be sent to the chairs of the House ~~Committees on Energy and~~
9 ~~Technology and on Natural Resources, Fish, and Wildlife~~ Committee on
10 Environment and Energy, the Senate Committee on Natural Resources and
11 Energy, and any other committee that has jurisdiction over an agency that is a
12 party to the memorandum of understanding.

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

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

20 § 755. STATE FLOOD HAZARD AREA STANDARDS; MUNICIPAL
21 EDUCATION; MODEL FLOOD HAZARD AREA
22 BYLAW OR ORDINANCE

1 (a) State flood hazard area standards.

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

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

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

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

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

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

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

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

22 (14) To encourage flood resilient communities.

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

6 * * *

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

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

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

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

20 (B) A flood resilience plan may reference an existing local hazard
21 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
22 Insurance Program as set forth in 44 C.F.R. § 60.3.

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

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

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

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

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

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

1 area or hazard area permit shall be required for land development covered
2 under the bylaw.

3 (D) Mandatory provisions.

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

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

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

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

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

5 * * *

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

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

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

17 (1) one current member of the House of Representatives, appointed by
18 the Speaker of the House;

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

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

1 (4) two members of Vermont’s Regional Planning Commissions,
2 appointed by the Vermont Association of Planning and Development
3 Agencies; and

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

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

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

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

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

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

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

21 (6) propose to the General Assembly funding sources to support all
22 potential administrative costs for a proposed state-administered National Flood

1 Insurance Program, including the permanent full-time classified staff positions
2 in the Department of Environmental Conservation’s Rivers Program needed to
3 establish a flood hazard area permitting program and a permitting fee for
4 applications to the Department of Environmental Conservation’s Rivers
5 Program and other potential funding sources.

6 (d) Assistance. For purposes of scheduling meetings and administrative
7 support, the Study Committee shall have the assistance of the Office of
8 Legislative Operations. For purposes of providing legal assistance and drafting
9 of legislation, the Study Committee shall have the assistance of the Office of
10 Legislative Counsel. For the purpose of providing fiscal assistance, the Study
11 Committee shall have the assistance of the Joint Fiscal Office.

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

16 (f) Meetings.

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

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

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

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

2 (g) Compensation and reimbursement.

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

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

12 Sec. 11. TRANSITION; IMPLEMENTATION; APPROPRIATIONS;

13 POSITIONS

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

18 (b) Prior to the effective date of the rules required in Sec. 5 of this act,
19 10 V.S.A. § 754 (river corridor development), the Secretary of Natural
20 Resources shall continue to implement the Vermont Flood Hazard Area and
21 River Corridor Rule as that rule existed on July 1, 2024 for development

1 exempt from municipal regulation in flood hazard areas and relevant river
2 corridors.

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

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

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

17 (d) In addition to other funds appropriated to the Agency of Natural
18 Resources in fiscal year 2025:

19 (1) the amount of \$300,000.00 shall be appropriated from the General
20 Fund to fund two new positions to adopt the State Flood Hazard Area
21 Standards required under Sec. 6 of this act and to assist municipalities in the
22 adoption of the State Flood Hazard Area Standards; and

1 (2) the amount of \$225,000.00 is appropriated from the General Fund
2 for the purpose of contracting costs necessary to support adoption of the State
3 Flood Hazard Area Standards required under Sec. 6 of this act.

4 *** Wetlands ***

5 Sec. 12. 10 V.S.A. § 901 is amended to read:

6 § 901. WATER RESOURCES MANAGEMENT POLICY

7 It is hereby declared to be the policy of the State that;

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

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

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

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

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

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

2 § 916. ~~REVISION~~ UPDATE OF VERMONT SIGNIFICANT WETLANDS
3 INVENTORY MAPS

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

18 (b) On or before January 1, 2030, the Secretary of Natural Resources shall
19 complete High Quality Wetlands Inventory (NWI) Plus level mapping for all
20 of the tactical basins in the State. The high-quality mapping shall include a
21 ground truthing component, as recommended by the U.S. Fish and Wildlife
22 Service (USFWS). Once all tactical basins are mapped, the Agency shall

1 evaluate the need for NWI Plus level map updates on a five-year cycle,
2 simultaneously with updates to the corresponding tactical basin plan.

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

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

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

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

1 wetlands. Adverse impacts to wetland buffers shall be compensated for based
2 on the effects of the impact on wetland function.

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

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

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

11 (3) Establish a set of parameters and restoration ratios applicable to
12 permittee-designed restored wetland restoration projects, including a minimum
13 2:1 ratio of restoration to loss to compensate for permanently filled or drained
14 wetlands. These parameters shall include consideration of the following
15 factors:

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

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

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

1 (D) the length of time before the compensation site will be fully
2 functional;

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

4 (F) the differences in the location of the adversely affected wetland
5 and the wetland subject to compensation that affect the services and values
6 offered; and

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

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

20 § 919. WETLANDS PROGRAM REPORTS

21 (a) On or before April 30, 2025, and annually thereafter, the Secretary of
22 Natural Resources shall submit to the House Committee on Environment and

1 Energy and to the Senate Committee on Natural Resources and Energy a report
2 on annual losses and gains of significant wetlands in the State. The report shall
3 include:

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

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

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

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

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

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

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

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

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

13 (a) Notwithstanding any other provision or procedure set forth in this
14 chapter, if the Secretary finds that any person has discharged or is discharging
15 any waste or damaging the ecological functions of wetlands in violation of this
16 chapter or chapter 37 of this title, or that any person has failed to comply with
17 any provisions of any order or permit issued in accordance with this chapter or
18 chapter 37 of this title, the Secretary may bring suit in the Superior Court in
19 any county where the discharge, damage to wetlands, or noncompliance has
20 occurred to enjoin the discharge ~~and to~~, obtain compliance, and mandate
21 restoration of damaged wetlands. The suit shall be brought by the Attorney
22 General in the name of the State. The court may issue a temporary injunction

1 or order in any such proceedings and may exercise all the plenary powers
2 available to it in addition to the power to:

3 (1) Enjoin future discharges.

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

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

9 ~~(4)~~ Order the removal of all wastes discharged and the restoration of
10 water quality.

11 ~~(4)~~~~(5)~~ Fix and order compensation for any public property destroyed,
12 damaged, or injured or any aquatic or terrestrial biota harmed or destroyed.

13 Compensation for fish taken or destroyed shall be deposited into the Fish and
14 Wildlife Fund.

15 ~~(5)~~~~(6)~~ Assess and award punitive damages.

16 ~~(6)~~~~(7)~~ Levy civil penalties not to exceed \$10,000.00 a day for each day
17 of violation.

18 ~~(7)~~~~(8)~~ Order reimbursement to any agency of federal, State, or local
19 government from any person whose discharge caused governmental
20 expenditures.

1 Sec. 17. APPROPRIATIONS

2 In addition to other funds appropriated to the Agency of Natural Resources
3 in fiscal year 2025, the amount of \$300,000.00 shall be appropriated from the
4 General Fund to fund two new positions to implement and comply with the
5 requirements of Secs. 12–15 of this act.

6 * * * Dam Safety * * *

7 Sec. 18. 10 V.S.A. chapter 43 is amended to read:

8 CHAPTER 43. DAMS

9 § 1079. PURPOSE

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

13 § 1080. DEFINITIONS

14 As used in this chapter:

15 (1) “Department” means the Department of Environmental
16 Conservation.

17 * * *

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

20 * * *

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

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

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

8 (ii) was partially breached; and

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

10 (C) “Dam” ~~shall~~ does not mean:

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

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

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

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

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

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

22 (7) “Federal dam” means:

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

2 (B) a dam subject to a Federal Energy Regulatory Commission
3 license or exemption.

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

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

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

14 § 1081. JURISDICTION OF DEPARTMENT ~~AND PUBLIC UTILITY~~
15 ~~COMMISSION~~

16 (a) Powers and duties. Unless otherwise provided, the powers and duties
17 authorized by this chapter shall be exercised by the Department, ~~except that the~~
18 ~~Public Utility Commission shall exercise those powers and duties over~~
19 ~~nonfederal dams and projects that relate to or are incident to the generation of~~
20 ~~electric energy for public use or as a part of a public utility system of~~
21 Environmental Conservation. Nonfederal dams at which the generation of
22 electric energy is subject to licensing jurisdiction under the Federal Power Act,

1 16 U.S.C. chapter 12, subchapter 1, and the dam structure is regulated
2 separately from electric generation shall ~~not~~ be under the jurisdiction of the
3 ~~Public Utility Commission~~ Department, except to the extent of regulation at
4 those facilities related solely to electric generation under the Federal Power
5 Act.

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

14 (c) Transfer of records. ~~Upon transfer of jurisdiction as set forth in~~
15 ~~subsection (b) of this section and upon written request, the State agency having~~
16 ~~former jurisdiction over a dam shall transfer copies of all records pertaining to~~
17 ~~the dam to the agency acquiring jurisdiction~~ Upon transfer of jurisdiction of
18 any dam from the Public Utility Commission to the Department, the Public
19 Utility Commission shall transfer copies of all records pertaining to the subject
20 dam, including record drawings, construction drawings, engineering
21 investigations and analyses, photographs, inspection reports, design,
22 permitting, and emergency action planning documents and any other files

1 pertaining to the subject dam, to the Department in digital and hardcopy format
2 acceptable to the Department within 30 days following the jurisdictional
3 transfer.

4 § 1082. AUTHORIZATION

5 (a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or
6 otherwise alter any nonfederal dam, pond, or impoundment or other structure
7 that is or will be capable of impounding more than 500,000 cubic feet of water
8 or other liquid after construction or alteration, or remove, breach, or otherwise
9 lessen the capacity of an existing nonfederal dam that is or was capable of
10 impounding more than 500,000 cubic feet within or along the borders of this
11 State where land in this State is proposed to be overflowed, or at the outlet of
12 any body of water within this State, unless authorized by the ~~State agency~~
13 ~~having jurisdiction so to do~~ Department, provided that an application for
14 activities that require authorization under 30 V.S.A. § 248 also shall be
15 approved by the Public Utility Commission. However, in the matter of flood
16 control projects where cooperation with the federal government is provided for
17 by the provisions of section 1100 of this title, that section shall control.

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

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

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

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

13 § 1083. APPLICATION

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

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

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

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

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

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

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

9 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

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

15 § 1085. NOTICE OF APPLICATION

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

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

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

11 § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

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

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

19 (2) scenic and recreational values;

20 (3) fish and wildlife;

21 (4) forests and forest programs;

22 (5) [Repealed.]

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

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

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

7 (9) the creation of any public benefits;

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

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

10 (12) municipal grand lists and revenues; and

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

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

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

1 the ~~agency having jurisdiction~~ Department considers necessary to protect any
2 element of the public good listed in subsection (a) of this section. Otherwise it
3 shall issue its order disapproving the application.

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

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

12 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

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

1 § 1089. EMPLOYMENT OF ENGINEER

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

8 § 1090. CONSTRUCTION SUPERVISION

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

15 § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

16 (a) On receipt of a petition signed by ~~no~~ not fewer than ~~ten~~ 10 interested
17 persons or the legislative body of a municipality, the ~~State agency having~~
18 ~~jurisdiction~~ Department shall, or upon its own motion it may, institute
19 investigations by an engineer as described in section 1087 of this title
20 regarding the safety of any existing nonfederal dam or portion of the dam of
21 any size. The ~~agency~~ Department may fix a time and place for hearing and
22 shall give notice in the manner it directs to all interested persons. The engineer

1 shall present ~~his or her~~ the engineer's findings and recommendations at the
2 hearing. After the hearing, if the Department finds that the nonfederal dam or
3 portion of the dam as maintained or operated is unsafe or is a menace to people
4 or property above or below the dam, it shall issue an order directing
5 reconstruction, repair, removal, breaching, draining, or other action it considers
6 necessary to improve the safety of the dam sufficiently to protect life and
7 property as required by the ~~State agency having jurisdiction~~ Department.

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

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

1 § 1099. APPEALS

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

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

6 * * *

7 § 1105. INSPECTION OF DAMS

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

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

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

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

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

1 which the dam is located with a copy of the inspection report and shall make
2 all inspection reports available on the Department website for public review.
3 For dams owned by the State, the Department shall provide the inspection
4 report to the designated point of contact for the dam at the State entity owning
5 the dam and make the information available to the public on the Department
6 website.

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

13 § 1106. ~~UNSAFE DAM~~ SAFETY REVOLVING LOAN FUND

14 (a) There is hereby established a special fund to be known as the Vermont
15 ~~Unsafe Dam~~ Safety Revolving Loan Fund that shall be used to provide ~~grants~~
16 ~~and loans to municipalities, nonprofit entities, and private individuals~~ low- or
17 zero-interest loans, including subsidized loans as established under subsection
18 (c) of this section and the rules adopted under section 1110 of this title,
19 pursuant to rules adopted by the Agency of Natural Resources, for the
20 reconstruction, repair, removal, breaching, draining, or other action necessary
21 to reduce the ~~threat~~ risk of a dam ~~or portion of a dam determined to be unsafe~~
22 ~~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
22 Dam Safety Program, excluding dams owned by the State of Vermont.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 § 1107. HAZARD POTENTIAL CLASSIFICATIONS

19 (a) ~~The State agency having jurisdiction over a nonfederal dam listed in the~~
20 ~~Vermont Dam Inventory~~ Department shall assess the hazard potential
21 classification of ~~the dam~~ all nonfederal dams listed in the Vermont Dam
22 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

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

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

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

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

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

15 § 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

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

19 [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. DAM SAFETY DIVISION POSITIONS

8 In addition to other funds appropriated to the Agency of Natural Resources
9 in fiscal year 2025:

10 (1) \$900,000.00 is appropriated from the General Fund for the purposes
11 of funding six new permanent full-time classified positions in the Dam Safety
12 Division of the Department of Environmental Conservation; and

13 (2) \$2,000,000.00 is appropriated from the General Fund for the
14 purposes of implementation of the Dam Safety Revolving Loan Fund.

15 Sec. 22. STUDY COMMITTEE ON DAM EMERGENCY OPERATIONS

16 PLANNING

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

1 emergency response plans, and how to fund dam emergency action planning at
2 the regional level.

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

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

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

9 (3) one member of the Department of Environmental Conservation Dam
10 Safety Program, who shall be appointed by the Governor;

11 (4) two members representing regional planning commissions in the
12 State, who shall be appointed by the Committee on Committees;

13 (5) one member of the Division of Emergency Management, who shall
14 be appointed by the Governor;

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

19 (7) one or more emergency management director or incident commander
20 from a municipality with experience in developing and carrying out an
21 emergency operation plan.

1 (c) Powers and duties. The Study Committee on Dam Emergency

2 Operations Planning shall:

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

5 (2) summarize the existing responsibilities of individual municipalities
6 to prepare for and implement existing emergency response plans, including
7 how those responsibilities are funded and whether placing responsibility with
8 individual municipalities is appropriate;

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

11 (4) recommend the content for a regional emergency action plan for
12 each dam identified under subdivision (1) of this subsection, including
13 identifying necessary evacuations, how evacuees will be sheltered and
14 provided care, and the location of emergency management centers for each
15 dam;

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

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

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

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

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

14 (f) Meetings.

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

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

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

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

22 (g) Compensation and reimbursement.

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

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

10 Sec. 23. DETERMINATION OF FEDERAL ENERGY REGULATORY

11 COMMISSION (FERC) JURISDICTION

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

1 Sec. 24. TRANSITION; DAMS

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

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

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

1 (d) The rulemaking required under Sec. 18 (dam safety transfer) of this act
2 under 10 V.S.A. § 1110(6) and (7) shall be completed on or before July 1,
3 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
22 the Senate Committees on Agriculture and on Natural Resources and Energy

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

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

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

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

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

14 * * *

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

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

18 (L) identify opportunities to mitigate impacts of severe precipitation
19 events on communities through implementation of nature-based restoration
20 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
22 subsection (a) of this section shall completely cover or be a physical barrier

1 between the expanded polystyrene foam and the water. Small gaps up to 0.75-
2 inch-diameter ballast holes are permitted in the physical barrier or covering
3 provided they are 0.1 percent or less of the square footage of the buoy, dock, or
4 floating structure.

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

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

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

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

19 or

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

1 § 1323. NUISANCE

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

6 § 1324. RULEMAKING

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

9 Sec. 27. APPROPRIATIONS

10 The amount of \$50,000.00 shall be appropriated from the General Fund to
11 the Department of Environmental Conservation to support education and
12 outreach regarding the requirements and prohibitions for the use of expanded
13 polystyrene foam or open-cell (beaded) polystyrene in waters of the State.

14 * * * Floodplain Management; Use Value Appraisal Program * * *

15 Sec. 28. STUDY COMMITTEE ON ENROLMENT OF FLOODPLAIN

16 MANAGEMENT LAND IN USE VALUE APPRAISAL; REPORT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (f) Meetings.

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

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

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

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

18 (g) Compensation and reimbursement.

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

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

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

7 * * * Effective Dates * * *

8 Sec. 29. EFFECTIVE DATES

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

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

12 (1) in Sec. 18, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund)
13 shall take effect on passage;

14 (2) under Sec. 25 (basin planning), the requirement shall be effective for
15 updated Tactical Basin Plans that commence on or after January 1, 2025; and

16 (3) in Sec. 26 (expanded polystyrene foam requirements), 10 V.S.A.
17 § 1324 (ANR rulemaking) shall take effect on passage.

18
19
20
21
22

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE