

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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 * * * Wetlands * * *

8 Sec. 1. 10 V.S.A. § 901 is amended to read:

9 § 901. WATER RESOURCES MANAGEMENT POLICY

10 It is hereby declared to be the policy of the State that:

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Sec. 2. 10 V.S.A. § 902(13) is added to read:

2 (13) “Dam removal” has the same meaning as in section 1090 of this
3 title.

4 Sec. 3. 10 V.S.A. § 916 is amended to read:

5 § 916. ~~REVISION~~ UPDATE OF VERMONT SIGNIFICANT WETLANDS
6 INVENTORY MAPS

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

9 Sec. 4. 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 previously impacted wetlands. As a condition of a permit for
16 activity in a wetland, the Secretary shall require the net gain of wetlands. This
17 condition shall not apply to wetland, river, and flood plain restoration projects,
18 including dam removals.

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 the Secretary shall mandate that the permit applicant restore, enhance, or create
2 wetlands or buffers to compensate for the adverse effects on a wetland. The
3 amount of wetlands to be restored, enhanced, or created shall be calculated, at
4 a minimum, by determining the acreage or square footage of wetlands
5 adversely affected by the permitted activity and multiplying the number of
6 adversely affected acres or square feet by two, to result in ratio of 2:1
7 restoration to disturbance. Establishment of a buffer zone contiguous to a
8 wetland shall not substitute for the restoration, enhancement, or creation of
9 wetlands. Adverse effects on wetland buffers shall also be restored, enhanced,
10 or created at a ratio of 2:1 restoration to disturbance, as established on a case-
11 by-case, per project basis.

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

13 (1) Require an applicant for a wetland permit to restore and enhance any
14 loss of more than 5,000 square feet of wetlands caused by the project that is
15 subject to the permit application. Wetland, river, and floodplain restoration
16 projects, including dam removal, shall not require a wetland permit under this
17 rule.

18 (2) Incorporate the net gain rule into existing general permits and into
19 requirements for permits issued after September 1, 2025.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

- 1 (3) Establish a set of parameters and ratios for the permittee-designed
2 restored wetlands, at not less than a 2:1 ratio, which shall include, at a
3 minimum, the following factors:
- 4 (A) the existing level of wetland function at the site prior to
5 mitigation or restoration of wetlands;
- 6 (B) the amount of wetland and wetland function lost as a result of the
7 project;
- 8 (C) how the wetland amounts and functions will be restored at the
9 proposed compensation site;
- 10 (D) the length of time before the compensation site will be fully
11 functional;
- 12 (E) the risk that the compensation project may not succeed;
- 13 (F) the differences in the location of the adversely affected wetland
14 and the wetland subject to compensation that affect the services and values
15 offered; and
- 16 (G) the requirement that permittees conduct five years of
17 postrestoration monitoring for the restored wetlands, at which time the Agency
18 can decide if further action is needed.
- 19 (d) When amending the Vermont Wetlands Rules under this section, the
20 Secretary shall establish a Vermont in-lieu fee (ILF) compensation program for
21 wetlands impacts that may be authorized as compensation for an adverse effect

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 on a wetland when the permittee cannot achieve restoration. The Secretary
2 may implement a Vermont ILF compensation program through agreements
3 with third-party entities such as the U.S. Army Corps of Engineers or
4 environmental organizations, provided that any ILF monetary compensation
5 authorized under the rules shall be expended on restoration, reestablishment,
6 enhancement, or conservation projects within the State at the HUC 8 level of
7 the adversely affected wetland when practicable.

8 § 919. WETLANDS PROGRAM REPORTS

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

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

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

19 (3) the number of site visits and technical assistance calls conducted by
20 the Agency of Natural Resources, the number of permits processed by the
21 Agency, and any enforcement actions that were taken by the Agency or the

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Office of the Attorney General in the previous year for violations of this
2 chapter; and

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Sec. 5. 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.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 ~~(4)~~(5) Fix and order compensation for any public property destroyed,
2 damaged, or injured or any aquatic or terrestrial biota harmed or destroyed.

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

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

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

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

11 Sec. 6. APPROPRIATIONS

12 In addition to other funds appropriated to the Agency of Natural Resources
13 in fiscal year 2025, the amount of \$750,000.00 shall be appropriated from the
14 General Fund to fund five new positions to implement and comply with the
15 requirements of Secs. 1–4 of this act.

16 * * * Development in River Corridors * * *

17 **Sec. 7. DEPARTMENT OF ENVIRONMENTAL CONSERVATION;**

18 **RIVER CORRIDOR BASE MAP; INFILL MAPPING;**

19 **EDUCATION AND OUTREACH**

20 **(a) On or before January 1, 2026, the Department of Environmental**

21 **Conservation shall amend the statewide River Corridor Base Map to identify**

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 areas within municipal designated centers that are suitable for infill and
2 redevelopment and that will not cause or contribute to increases in fluvial
3 erosion hazards.

4 (b) Beginning January 1, 2025 and ending January 1, 2027, the Department
5 of Environmental Conservation shall conduct an education and outreach
6 program to consult with and collect input from municipalities, businesses,
7 property owners, farmers, and other members of the public regarding how
8 State permitting of development in mapped river corridors will be
9 implemented, including potential restrictions on the use of land within mapped
10 river corridors. The Department shall develop educational materials for the
11 public as part of its charge under this section. The Department shall collect
12 input from the public regarding the permitting of development in mapped river
13 corridors as proposed by this act. On or before January 15, 2026, the
14 Department shall submit to the Senate Committee on Natural Resources and
15 Energy and the House Committee on Environment and Energy a report that
16 shall include:

17 (1) a summary of the public input it received regarding State permitting
18 of development in mapped river corridors; and

19 (2) recommendations, based on the public input collected, for changes to
20 the requirements for State permitting of development in mapped river
21 corridors.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

8 Sec. 9. 10 V.S.A. § 754 is amended to read:

9 § 754. FLOOD HAZARD AREA AND MAPPED RIVER CORRIDOR

10 RULES; USES EXEMPT FROM MUNICIPAL REGULATION

11 (a) Rulemaking authority.

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

15 ~~(i) uses exempt from municipal regulation that are located within a~~
16 ~~flood hazard area or river corridor of a municipality that has adopted a flood~~
17 ~~hazard by law or ordinance under 24 V.S.A. chapter 117; and~~

18 ~~(ii) State owned and operated institutions and facilities that are~~
19 ~~located within a flood hazard area or river corridor~~ On or before January 1,
20 2028, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 establish requirements for issuing and enforcing permits for development
2 within a flood hazard area or a mapped river corridor in the State.

3 * * *

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

5 (1) set forth the requirements necessary to ensure ~~uses exempt from~~
6 ~~municipal regulation are~~ development is regulated by the State in order to
7 comply with the regulatory obligations set forth under the National Flood
8 Insurance Program;

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

11 (3) provide for exemptions from permitting or use of general permits for
12 certain development;

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

19 (5) set forth a process, in collaboration with the Agency of Commerce
20 and Community Development and the Vermont Regional Planning
21 Commissions, for amending the statewide River Corridor Base Map to identify

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 areas within existing settlements suitable for development that will not cause
2 or contribute to increases in fluvial erosion hazards; and

3 ~~(e)(6) Discretionary rulemaking. The rules required under this section may~~
4 establish requirements that exceed the requirements of the National Flood
5 Insurance Program ~~for uses exempt from municipal regulation, including~~
6 requirements for the maintenance of existing native riparian vegetation,
7 provided that any rules adopted under this subsection that exceed the minimum
8 requirements of the National Flood Insurance Program shall be designed to
9 prevent or limit a risk of harm to life, property, or infrastructure from flooding.

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

17 ~~(e)(d) Consultation with interested parties. Prior to submitting the rules~~
18 required by this section to the Secretary of State under 3 V.S.A. § 838, the
19 Secretary shall solicit the recommendations of and consult with affected and
20 interested persons and entities such as: the Secretary of Commerce and
21 Community Development; the Secretary of Agriculture, Food and Markets; the

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Secretary of Transportation; the Commissioner of Financial Regulation;
2 representatives of river protection interests; representatives of fishing and
3 recreational interests; representatives of the banking industry; representatives
4 of the agricultural community; representatives of the forest products industry;
5 the regional planning commissions; municipal interests; and representatives of
6 municipal associations.

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

18 ~~(g)~~(f) Delegation.

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

6 (3) Prior to entering a memorandum of understanding, the Secretary
7 shall post the proposed memorandum of understanding on its website for 30
8 days for notice and comment. When the memorandum of understanding is
9 posted, it shall include a summary of the proposed memorandum; the name,
10 telephone number, and address of a person able to answer questions and
11 receive comments on the proposal; and the deadline for receiving comments.

12 A final copy of a memorandum of understanding entered into under this
13 section shall be sent to the chairs of the House ~~Committees on Energy and~~
14 ~~Technology and on Natural Resources, Fish, and Wildlife~~ Committee on
15 Environment and Energy, the Senate Committee on Natural Resources and
16 Energy, and any other committee that has jurisdiction over an agency that is a
17 party to the memorandum of understanding.

18 (h)(g) Municipal authority. This section and the rules adopted under it
19 shall not prevent a municipality from adopting substantive requirements for
20 development in a flood hazard area bylaw or ordinance under 24 V.S.A.
21 chapter 117 that are more stringent than the rules required by this section,

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 provided that the bylaw or ordinance shall not apply to uses exempt from
2 municipal regulation.

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

4 § 755. REQUIRED STATE FLOOD HAZARD AREA STANDARDS;

5 MUNICIPAL EDUCATION; MODEL FLOOD HAZARD AREA

6 BYLAW OR ORDINANCE

7 (a) Required municipal flood hazard area standards.

8 (1) On or before January 1, 2026, the Secretary shall adopt rules
9 pursuant to 3 V.S.A. chapter 25 that establish a set of flood hazard area
10 standards that all municipalities enrolled in the National Flood Insurance
11 Program (NFIP) shall be required to adopt and administer.

12 (2) The rules shall contain flood hazard area standards that exceed the
13 minimum standards of the NFIP by reducing flood risk to new development
14 and ensuring new development does not create adverse impacts to adjacent
15 preexisting development.

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 (4) Any municipality that participates in the NFIP shall update their
2 flood hazard standards to comply with the State Flood Hazard Area Standards
3 by January 1, 2028. For any NFIP-participating community that has not
4 updated the local bylaw or ordinance by January 1, 2028, the State Flood
5 Hazard Area Standards shall become the applicable standards for regulating
6 development in any flood hazard area.

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

13 (b)(c) Model flood hazard area bylaw or ordinance. The Secretary shall
14 create and make available to municipalities a model flood hazard area bylaw or
15 ordinance for potential adoption by municipalities pursuant to 24 V.S.A.
16 chapter 117 or 24 V.S.A. § 2291. The model bylaw or ordinance shall set forth
17 the minimum provisions necessary to meet the requirements of the ~~National~~
18 ~~Flood Insurance Program~~ NFIP, including implementation of the State Flood
19 Hazard Area Standards adopted under subsection (a) of this section. The
20 model bylaw may include alternatives that exceed the minimum requirements
21 for compliance with the ~~National Flood Insurance Program~~ NFIP and State

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Flood Hazard Area Standards in order to allow a municipality to elect whether
2 it wants to adopt the minimum requirement or an alternate requirement that
3 further minimizes the risk of harm to life, property, and infrastructure from
4 flooding.

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

12 Sec. 11. 24 V.S.A. § 4302(c)(14) is amended to read:

13 (14) To encourage flood resilient communities.

14 (A) New development in identified flood hazard, fluvial erosion, and
15 river corridor protection areas should be avoided. If new development is to be
16 built in such areas, it should not exacerbate flooding and fluvial erosion. To
17 minimize impacts in flood hazard areas, municipalities participating in the
18 National Flood Insurance Program shall adopt flood hazard area bylaws that
19 meet or exceed the statewide minimum flood hazard area standards established
20 by rule by the Agency of Natural Resources.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 (B) The protection and restoration of floodplains and upland forested
2 areas that attenuate and moderate flooding and fluvial erosion should be
3 encouraged.

4 (C) Flood emergency preparedness and response planning should be
5 encouraged.

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Sec. 13. 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, or other hazard areas. The following shall apply if

15 flood 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.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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~~ Shall require compliance with the
20 State Flood Hazard Area Standards established by rule pursuant to 10 V.S.A.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 § 755(c) and meet all additional requirements under the National Flood

2 Insurance Program as set forth in 44 CFR § 60.3.

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

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

4 (D) Mandatory provisions.

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

9 (I) 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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 delegated under this subdivision (a)(2)(D) shall not be binding on a
2 municipality.

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

7 * * *

8 Sec. 14. STUDY COMMITTEE ON STATE ADMINISTRATION OF THE
9 NATIONAL FLOOD INSURANCE PROGRAM

10 (a) Creation. There is created the Study Committee on State
11 Administration of the National Flood Insurance Program to review and
12 recommend how to reduce vulnerability to inundation flooding, including how
13 and to what scale to shift responsibility for the administration and enforcement
14 of the National Flood Insurance Program from individual municipalities to the
15 State Department of Environmental Conservation, [and recommendations for a
16 state minimum flood hazard area standard, which must meet or exceed the
17 National Flood Insurance Program minimum standards.]

18 (b) Membership. The Study Committee on State Administration of the
19 National Flood Insurance Program shall be composed of the following
20 members:

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

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

7 (4) two members of Vermont’s Regional Planning Commissions,
8 appointed by the Vermont Association of Planning and Development
9 Agencies; and

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

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

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

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

19 (3) assess the feasibility of the Department of Environmental
20 Conservation Rivers Program to take on the administrative burden of the

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 National Flood Insurance Program, including an assessment of the various
2 scales with which this could occur;

3 (4) assess the feasibility of creating a state flood hazard area minimum
4 standard;

5 (5) estimate the staffing needs to effectively administer the National
6 Flood Insurance Program for Vermont’s municipalities;

7 (6) recommend how to phase in a proposed state-administered National
8 Flood Insurance Program; and

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

16 (d) Assistance. For purposes of scheduling meetings and administrative
17 support, the Study Committee shall have the assistance of the Office of
18 Legislative Operations. For purposes of providing legal assistance and drafting
19 of legislation, the Study Committee shall have the assistance of the Office of
20 Legislative Counsel. For the purpose of providing fiscal assistance, the Study
21 Committee shall have the assistance of the Joint Fiscal Office.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

5 (f) Meetings.

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

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

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

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

13 (g) Compensation and reimbursement.

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

19 (2) Other members of the Study Committee shall be entitled to per diem
20 compensation and reimbursement of expenses as permitted under 32 V.S.A.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 § 1010 for not more than eight meetings. These payments shall be made from
2 monies appropriated to the General Assembly.

3 Sec. 15. TRANSITION; IMPLEMENTATION; APPROPRIATIONS;

4 **POSITIONS**

5 (a) The Secretary of Natural Resources shall initiate rulemaking, including
6 pre-rulemaking, for the rules required in Sec. 9 of this act, 10 V.S.A. § 754
7 (river corridor development), on or before January 1, 2026. The effective date
8 of the rules shall be July 1, 2026.

9 (b) Prior to the effective date of the rules required in Sec. 9 of this act,
10 10 V.S.A. § 754 (river corridor development), the Secretary of Natural
11 Resources shall continue to implement the Vermont Flood Hazard Area and
12 River Corridor Rule for development that is exempt from municipal regulation.

13 (c) The Secretary of Natural Resources shall not require a permit under
14 10 V.S.A. § 754 for development in a flood hazard area or mapped river
15 corridor for development that has the same meaning as “development” under
16 44 C.F.R. § 59.1 for activities for which:

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

20 (2) a complete application for all applicable local, State, and federal
21 permits has been submitted on or before July 1, 2028, provided that the

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 applicant does not subsequently file an application for a permit amendment
2 that would require a permit under 10 V.S.A. chapter 32 and that substantial
3 construction of the impervious surface or cleared area commences within two
4 years following the date on which all applicable local, State, and federal
5 permits become final.

6 (d) In addition to other funds appropriated to the Agency of Natural
7 Resources in fiscal year 2025, the amount of \$250,000.00 shall be appropriated
8 from the General Fund to fund two new positions to adopt the State Flood
9 Hazard Area Standards required under Sec. 10 of this act and to assist
10 municipalities in the adoption of the State Flood Hazard Area Standards.

11 * * * Dam Safety * * *

12 Sec. 16. 10 V.S.A. chapter 43 is amended to read:

13 CHAPTER 43. DAMS

14 § 1079. PURPOSE

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

18 § 1080. DEFINITIONS

19 As used in this chapter:

20 (1) “Department” means the Department of Environmental
21 Conservation.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 * * *

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

4 * * *

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

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

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

12 (ii) was partially breached; and

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

14 (C) “Dam” ~~shall~~ does not mean:

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

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

6 (7) “Federal dam” means:

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

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

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

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

16 (10) “Harm” means any personal injury or property damage.

17 (11) “Dam removal” means a river restoration and resilience project that
18 removes all or part of a dam.

19 § 1081. JURISDICTION OF DEPARTMENT ~~AND PUBLIC UTILITY~~
20 ~~COMMISSION~~

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

18 (c) ~~Transfer of records. Upon transfer of jurisdiction as set forth in~~
19 ~~subsection (b) of this section and upon written request, the State agency having~~
20 ~~former jurisdiction over a dam shall transfer copies of all records pertaining to~~
21 ~~the dam to the agency acquiring jurisdiction.~~

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 § 1082. AUTHORIZATION

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

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

19 (c) An intake structure in existence on July 1, 2018 that continues to
20 operate in accordance with a valid Department permit or approval that contains
21 requirements for inspection and maintenance subject to section 1105 of this

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 title shall have a rebuttable presumption of compliance with the requirements
2 of this chapter and rules adopted under this chapter, provided that no
3 presumption of compliance shall apply if one or both of the following occur on
4 or after July 1, 2018:

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

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

10 § 1083. APPLICATION

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

5 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

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

11 § 1085. NOTICE OF APPLICATION

12 Upon receipt of the application required by section 1082 of this title, the
13 ~~State agency having jurisdiction~~ Department shall give notice to the legislative
14 body of each municipality in which the dam is located and to all interested
15 persons. The Department shall provide notice of and an opportunity for public
16 comment in accordance with chapter 170 of this title. The purpose of the
17 public comment under chapter 170 of this title is to determine whether the
18 project serves the public good as defined in section 1086 of this title and
19 provides adequately for the public safety.

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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, among other things,
15 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;

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 (5) [Repealed.]

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

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

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

8 (9) the creation of any public benefits;

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

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

11 (12) municipal grand lists and revenues; and

12 (13) public safety; and

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 order shall include conditions for attainment of water quality standards, as
2 determined by the Agency of Natural Resources, and such other conditions as
3 the ~~agency having jurisdiction~~ Department considers necessary to protect any
4 element of the public good listed in subsection (a) of this section. Otherwise it
5 shall issue its order disapproving the application.

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

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

14 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

15 For any proposal subject to authorization under section 1082 of this title, the
16 ~~State agency having jurisdiction~~ Department shall ~~employ~~ require an engineer
17 to investigate the property, review the plans and specifications, and make
18 additional investigations as the ~~State agency having jurisdiction~~ Department
19 considers necessary to ensure that the project adequately provides for the
20 public safety. The engineer conducting an investigation under this section
21 shall be an employee of the Department or shall be operating under the

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 supervision of the Department as an independent consultant. The engineer
2 shall report ~~his or her~~ the engineer's findings to the ~~State agency having~~
3 ~~jurisdiction~~ Department.

4 § 1089. EMPLOYMENT OF ENGINEER

5 ~~With the approval of the Governor, the State agency having jurisdiction~~ The
6 Department may ~~employ~~ require an engineer to investigate the property,
7 review the plans and specifications, and make such additional investigation as
8 the ~~State agency~~ Department shall deem necessary, ~~and such~~. The engineer
9 conducting an investigation under this section shall be an employee of the
10 Department or shall be operating under the supervision of the Department as
11 an independent consultant. The engineer shall report to the ~~State agency his or~~
12 ~~her~~ Department the engineer's findings in respect thereto, and the Department
13 shall review and approve the report or request additional information.

14 § 1090. CONSTRUCTION SUPERVISION

15 The construction, alteration, or other action authorized in section 1086 of
16 this title shall be supervised by an engineer employed by the applicant. Upon
17 completion of the authorized project, the engineer shall certify to the ~~agency~~
18 ~~having jurisdiction~~ Department that the project has been completed in
19 conformance with the approved plans and specifications.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 § 1091. LIABILITY FOR DAM BREACH

2 (a) The person owning legal title to a dam shall be responsible and liable
3 for damage to property of others or injury to persons, including loss of life
4 resulting from the operation, failure, or misoperation of a dam.

5 (b) Compliance with the requirements of this chapter or rules adopted
6 under this chapter by a person owning legal title to a dam shall not relieve from
7 or lessen the responsibility of the person owning legal title to the dam from any
8 damages to persons or property caused by failure of the dam, nor shall the
9 Department of Environmental Conservation be held liable by reason of any
10 inspections, technical documents, or permits issued for the dam.

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

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

20 § 1099. APPEALS

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

5 * * *

6 § 1105. INSPECTION OF DAMS

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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~~ 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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 to reduce the ~~threat risk~~ of a dam ~~or portion of a dam determined to be unsafe~~
2 ~~pursuant to section 1095 of this chapter.~~

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

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

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

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

19 (2) Nonemergency funding. For permanent safety or risk reduction
20 projects such as repair, rehabilitation, or removal, including engineering,

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 analyses, design, and construction. To be eligible for nonemergency funding,
2 the dam must meet the following criteria:

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

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

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

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

16 (E) To be eligible for nonemergency funding, an alternatives analysis
17 of dam repair, rehabilitation, and removal options that considers floodplain and
18 wetland restoration, water quality, aquatic organism passage, public recreation
19 opportunities, and costs shall be completed, pursuant to the rule adopted by the
20 Department.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 (F) Under this subdivision (b)(2), only engineering, analysis, design,
2 and construction that result in removal of a dam are eligible for loan subsidy.

3 (c) The Fund created by this section shall be established and held separate
4 and apart from any other funds or monies of the State and shall be used and
5 administered exclusively for the purposes set forth in this section. The funds
6 shall be invested in the same manner as permitted for investment of funds
7 belonging to the State or held in the Treasury. The Fund shall consist of the
8 following:

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

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

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

3 § 1107. HAZARD POTENTIAL CLASSIFICATIONS

4 (a) ~~The State agency having jurisdiction over a nonfederal dam listed in the~~
5 ~~Vermont Dam Inventory Department~~ shall assess the hazard potential
6 classification of ~~the dam~~ all nonfederal dams listed in the Vermont Dam
7 Inventory based on the potential loss of human life, property damage, and
8 economic loss that would occur in the event of the failure of the dam. There
9 shall be four hazard potential classifications: high, significant, low, and
10 minimal.

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

14 * * *

15 § 1110. RULEMAKING

16 The Commissioner of Environmental Conservation shall adopt rules to
17 implement the requirements of this chapter for dams under the jurisdiction of
18 the Department. The rules shall include:

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

21 (2) standards for:

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

- 1 (A) the siting, design, construction, reconstruction, enlargement,
2 modification, or alteration of a dam;
- 3 (B) operation and maintenance of a dam;
- 4 (C) inspection, monitoring, record keeping, and reporting;
- 5 (D) repair, breach, or removal of a dam;
- 6 (E) application for authorization under section 1082 of this title; and
- 7 (F) the development of an emergency action plan for a dam,
8 including guidance on how to develop an emergency action plan, the content of
9 a plan, and when and how an emergency action plan should be updated;
- 10 (3) criteria for the hazard potential classification of dams in the State;
- 11 (4) a process by which a person owning legal title to a dam or a person
12 owning the land on which the dam is located shall register a dam and record
13 the existence of the dam in the lands records; ~~and~~
- 14 (5) requirements for the person owning legal title to a dam or the person
15 owning the land on which the dam is located to conduct inspections of the
16 dam;
- 17 (6) requirements for access to financing and subsidy from the Dam
18 Safety Revolving Loan Fund; and
- 19 (7) requirements and criteria for an alternative analysis, including that it
20 be conducted by an independent third party and is necessary for eligibility for
21 nonemergency funding from the Unsafe Dam Fund.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 § 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

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

5 [Repealed.]

6 **Sec. 17. 2018 Acts and Resolves No. 161, Sec. 2, as amended by 2023 Acts**

7 **and Resolves No. 79, Sec. 1, is further amended to read:**

8 **Sec. 2. DAM REGISTRATION PROGRAM REPORT**

9 **On or before January 1, 2025 2026, the Department of Environmental**
10 **Conservation shall submit a report to the House Committees on ~~Natural~~**
11 **Resources, Fish, and Wildlife Environment and Energy and on Ways and**
12 **Means and the Senate Committees on Natural Resources and Energy and on**
13 **Finance. The report shall contain:**

14 **(1) an evaluation of the dam registration program under 10 V.S.A.**
15 **chapter 43;**

16 **(2) a recommendation on whether to modify the fee structure of the dam**
17 **registration program;**

18 **(3) a summary of the dams registered under the program, organized by**
19 **amount of water impounded and hazard potential classification; and**

20 **(4) an evaluation of any other dam safety concerns related to dam**
21 **registration.**

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Sec. 18. 2018 Acts and resolves No. 161, Sec. 3, as amended by 2023 Acts

2 and resolves No. 79, Sec. 2, is further amended to read:

3 Sec. 3. ADOPTION OF RULES

4 The Secretary of Natural Resources shall adopt the rules required under

5 10 V.S.A. § 1110 as follows:

6 (1) the rules required under 10 V.S.A. § 1110(1) (exemptions),

7 § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification),

8 § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted

9 on or before July 1, 2020; and

10 (2) the rules required under 10 V.S.A. § 1110(2) (dam design standards)

11 shall be adopted on or before July 1, 2024 2025.

12 Sec. 19. DAM SAFETY DIVISION POSITIONS

13 In addition to other funds appropriated to the Agency of Natural Resources

14 in fiscal year 2025, \$350,000.00 is appropriated to the Agency for the purposes

15 of funding three new permanent full-time classified positions in the Dam

16 Safety Division of the Department of Environmental Conservation.

17 Sec. 20. STUDY COMMITTEE ON DAM EMERGENCY ACTION

18 PLANNING

19 (a) Creation. There is created the Study Committee on Dam Emergency

20 Action Planning to review and recommend how to improve regional

21 emergency action planning for hazards caused by dam failure, including how

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 to shift responsibility for emergency planning from individual municipalities to
2 regional authorities, how to improve regional implementation of dam
3 emergency response plans, and how to fund dam emergency action planning at
4 the regional level.

5 (b) Membership. The Study Committee on Dam Emergency Action
6 Planning shall be composed of the following members:

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

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

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

13 (4) one member of the Public Utility Commission, who shall be
14 appointed by the Speaker of the House;

15 (5) two members representing regional planning commissions in the
16 State, who shall be appointed by the Committee on Committees;

17 (6) one member of the Division of Emergency Management, who shall
18 be appointed by the Governor; and

19 (7) one legal owner of a dam, who shall be appointed by the Speaker
20 upon recommendation of the Dam Safety Program of the Department of
21 Environmental Conservation.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

2 Planning shall:

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

4 dams that also have a significant possibility of flooding populated areas;

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 (g) Compensation and reimbursement.

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

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

11 **Sec. 21. DETERMINATION OF FEDERAL ENERGY REGULATORY**

12 **COMMISSION (FERC) JURISDICTION**

13 Nonfederal hydroelectric projects without a valid pre-1920 license may be
14 subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction
15 and may require a license from FERC to operate. By December 31, 2024, the
16 Public Utility Commission, in coordination with the Department of
17 Environmental Conservation, shall file petitions for a Declaratory Order from
18 FERC to determine whether projects currently under the Public Utility
19 Commission's jurisdiction falls under FERC's hydroelectric licensing
20 jurisdiction. The Public Utility Commission shall provide notice to the dam
21 owner when a petition is filed with FERC.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 Sec. 22. TRANSITION; DAMS

2 (a) The Department of Environmental Conservation shall publish a
3 schedule by January 1, 2025 for the jurisdictional transfer from the Public
4 Utility Commission to the Department of the dams that as of the effective date
5 of this act are regulated by the Public Utility Commission. The schedule shall
6 be based on the presumed hazard classification of each dam, provided that:

7 (A) the Agency shall assume jurisdiction over dams with a high-
8 hazard classification by July 1, 2025; and

9 (B) the Agency shall assume jurisdiction over all other dams by July
10 1, 2028.

11 (b) Notwithstanding the effective date of Sec. 16 of this act (transfer of
12 dam safety jurisdiction), the Public Utility Commission shall retain jurisdiction
13 over dams within its control as of the effective date of this act until the
14 jurisdiction of each dam is transferred to the Department of Environmental
15 Conservation under the schedule required by subsection (a) of this section.
16 While the Public Utility Commission continues to exercise authority under
17 10 V.S.A. Chapter 43, the Public Utility Commission shall apply the dam
18 design standard rules as adopted by the Department of Environmental
19 Conservation.

Yellow highlighting = Change from Last Draft

Grey highlighting = Questions/Unresolved Issues

1 (c) The rulemaking required under Sec. 16 (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 (d) Funding from the Dam Safety Revolving Fund, as amended by Sec. 16
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. **23**. 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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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. When a person installs a buoy, dock, or
11 floating structure on the waters of the State, any expanded polystyrene foam
12 used for flotation shall be encapsulated by a protective covering or shall be
13 designed to prevent the expanded polystyrene foam from disintegrating into
14 the water.

15 (b) Prohibition; open-cell (beaded) polystyrene. No person shall use open-
16 cell (beaded) polystyrene for a buoy, dock, or floating structure on the waters
17 of the State.

18 (c) Methods of encapsulation.

19 (1) Encapsulation of a buoy, dock, or floating structure required under
20 subsection (a) of this section shall completely cover or be a physical barrier
21 between the expanded polystyrene foam and the water. Small gaps up to 0.75-

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 inch-diameter ballast holes are permitted in the physical barrier or covering
2 provided they are 0.1 percent or less of the square footage of the buoy, dock, or
3 floating structure.

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

9 (d) Repair. A person may repair and maintain the flotation of a dock, buoy,
10 or float only with an expanded submersible encapsulated polystyrene device
11 that meets the requirements of subsection (c) of this section.

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 § 1323. NUISANCE

2 In addition to the prohibitions set forth in section 1322 of this title, the use
3 of unencapsulated polystyrene as a flotation device in waters of the State,
4 including in any dock system, float, mooring system, or buoy, is declared a
5 nuisance and public health hazard and may be prosecuted as provided in the
6 Vermont Revised Statutes.

7 § 1324. RULEMAKING

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

10 Sec. 25. APPROPRIATIONS

11 The amount of \$50,000.00 shall be appropriated from the General Fund to
12 the Department of Environmental Conservation for use by the Lakes and Ponds
13 Program for staffing requirements and distribution, if necessary, as grants to
14 lake and pond associations and similar groups to assist lakeshore residents,
15 businesses, and organizations with the replacement of existing unencapsulated
16 devices.

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

18 Sec. 26. STUDY COMMITTEE ON ENROLMENT OF FLOODPLAIN

19 MANAGEMENT LAND IN USE VALUE APPRAISAL; REPORT

20 (a) Creation. There is created the Study Committee on Enrolling

21 Floodplain Management Land in the Use Value Appraisal Program to

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 determine whether or how to authorize the enrollment of land designated for
2 floodplain management in the Use Value Appraisal (UVA) Program.

3 (b) Membership. The Study Committee shall be composed of the
4 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) the Director of Property Valuation and Review or designee;

10 (4) the Director of the Rivers Program within the Watershed
11 Management Division at the Department of Environmental Conservation or
12 designee;

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

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

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

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

4 (2) if the Study Committee recommends that real property that provides
5 flood mitigation or flood resilience services should be allowed to enroll in the
6 UVA Program, what should be the criteria for enrollment, what should be the
7 use value rate for qualifying enrolled real property, and what should be the
8 timeline for enrollment.

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

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

16 (f) Meetings.

17 (1) The Director of Property Valuation and Review or designee shall
18 call the first meeting of the Study Committee to occur on or before September
19 1, 2025.

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

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

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

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

3 (g) Compensation and reimbursement.

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

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

13 *** Emergency Permit Notice ***

14 Sec. 27. 10 V.S.A. § 7706 is added to read:

15 § 7706. EMERGENCY NOTICE PROVISIONS FOR NATURAL

16 DISASTERS

17 Notwithstanding the requirements of this chapter, during a federally
18 declared emergency or state of emergency issued in response to a natural
19 disaster, the Secretary may issue certain individual permits and notices of
20 intent under a general permit as emergency permits according to the
21 procedures established in section 7716 of this title (Type 5 Procedures). This

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 section shall only apply to approvals governing activities that are necessary to
2 respond to the conditions created or caused by a natural disaster to conduct
3 hazard mitigation, support response and recovery efforts to alleviate hardship
4 and suffering of citizens and communities, or preserve public health and safety
5 and property of the State. This section shall not apply to permits or notices of
6 intent for activities that are subject to section 7712 of this title (Type I
7 Procedures).

8 * * * Tax on Hazardous Waste * * *

9 Sec. 28. 32 V.S.A. § 10104(a) is amended to read:

10 (a) On or before the last day of the month following each calendar quarter,
11 the Secretary shall calculate the amount of tax due under this chapter based on
12 information required to be reported on a manifest or other report during ~~that~~
13 the previous calendar quarter and shall supply the Commissioner with the
14 name, address, and amount of tax owed by each person required to pay tax for
15 that quarter.

16 * * * Effective Dates * * *

17 Sec. 29. EFFECTIVE DATES

18 (a) This section and Secs. 17 (dam registration report), 18 (dam design
19 standard rules), 21 (FERC petition), and 27 (emergency permits) shall take
20 effect on passage.

Yellow highlighting = Change from Last Draft
Grey highlighting = Questions/Unresolved Issues

1 **(b) Sec. 28 (hazardous waste tax) shall take effect on passage and shall**
2 **apply to the next calendar quarter for which taxes have not yet been calculated.**

3 **(c) All other sections shall take effect July 1, 2024, except that:**

4 **(1) in Sec. 16, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund)**
5 **shall take effect on passage;**

6 **(2) under Sec. 23 (basin planning), the requirement shall be effective for**
7 **updated Tactical Basin Plans that commence on or after January 1, 2025; and**

8 **(3) in Sec. 24 (expanded polystyrene foam requirements), 10 V.S.A.**
9 **§ 1324 (ANR rulemaking) shall take effect on passage.**

10

11

12

13

14

15 (Committee vote: _____)

16

17

Senator _____

18

FOR THE COMMITTEE