

1

S.213

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

4 The House proposes to the Senate to amend the bill as follows:

5 First: In Sec. 3, Department of Environmental Conservation; River
6 Corridor Base Map; infill mapping; education and outreach, in subsection (a),
7 after “On or before January 1, 2026, the Department of Environmental
8 Conservation” and before “shall amend” by inserting “, in consultation with
9 the Agency of Commerce and Community Development and the regional
10 planning commissions,”

11 Second: By adding a new section to be Sec. 6a to read as follows:

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

13 (25) To regulate by means of an ordinance or bylaw development in a
14 flood hazard area, ~~river corridor protection area~~, or other hazard area consistent
15 with the requirements of section 4424 of this title and the National Flood
16 Insurance Program. Such an ordinance or bylaw may regulate accessory
17 dwelling units in flood hazard ~~and fluvial erosion~~ areas. However, such an
18 ordinance or bylaw shall not require the filing of an application or the issuance
19 of a permit or other approval by the municipality for a planting project
20 considered to have a permit by operation of subsection 4424(c) of this title.

21 Third: By adding two new sections to be Secs. 8a and 8b to read as follows:

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

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

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

10 (G) ~~River corridors and buffers~~ Buffers. In accordance with section
11 4424 of this title, a municipality may adopt bylaws to protect ~~river corridors~~
12 ~~and buffers~~, as ~~those terms are~~ that term is defined in 10 V.S.A. §§ 1422 ~~and~~
13 ~~1427~~, in order to protect public safety; prevent and control water pollution;
14 prevent and control stormwater runoff; preserve and protect wetlands and
15 waterways; maintain and protect natural channel, streambank, and floodplain
16 stability; minimize ~~fluvial erosion and~~ damage to property and transportation
17 infrastructure; preserve and protect the habitat of terrestrial and aquatic
18 wildlife; promote open space and aesthetics; and achieve other municipal,
19 regional, or State conservation and development objectives for ~~river corridors~~
20 ~~and buffers~~. ~~River corridor and buffer~~ Buffer bylaws may regulate the design
21 and location of development; control the location of buildings; require the

1 provision and maintenance or reestablishment of vegetation, including no net
2 loss of vegetation; require screening of development or use from waters;
3 reserve existing public access to public waters; and impose other requirements
4 authorized by this chapter.

5 Fourth: In Sec. 15, 10 V.S.A. §§ 918 and 919, in section 918, in
6 subdivision (c)(1), by striking out the last sentence in its entirety.

7 Fifth: By adding a new section to be Sec. 15a to read as follows:

8 Sec. 15a. WETLANDS RULEMAKING; ALLOWED USES

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

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

14 (2) temporary access to wetlands, river, and flood restoration projects

15 that are currently allowed uses under the Rules, provided that the

16 Commissioner shall allow temporary access to wetlands as an allowed use for

17 wetlands, river, and flood restoration projects conducted or initiated prior to

18 January 1, 2025.

19 Sixth: By adding a new section to be Sec. 15b to read as follows:

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

2 § 1266a. DISCHARGES OF PHOSPHORUS

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

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

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

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

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

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

5 (c) [Repealed.]

6 Seventh: In Sec. 24, transition; dams, by adding a new subsection to be
7 subsection (f) to read as follows:

8 (f) On or before January 15, 2025, the Agency of Natural Resources shall
9 complete its analysis of the capital and ongoing operations and maintenance
10 costs of the Green River Dam, as authorized in 2022 Acts and Resolves No.
11 83, Sec. 46, and shall submit the results of the analysis to the House
12 Committees on Environment and Energy and on Appropriations and the Senate
13 Committees on Natural Resources and Energy and on Appropriations.

14 Eighth: By striking out Sec. 28 (floodplain management; use value
15 appraisal), and its reader assistance and by inserting a new Sec. 28 and its
16 reader assistance to read as follows:

17 * * * Report on Waiver of Permit Fees * * *

18 Sec. 28. REPORT ON WAIVER OF PERMIT FEES

19 (a)(1) The Secretary of Natural Resources shall produce a report on
20 whether and how to establish criteria for waiving, reducing, or mitigating

1 Agency of Natural Resources' permit fees for persons of low income or other
2 criteria.

3 (2) The Chair of the Natural Resources Board shall produce a report on
4 whether and how to establish criteria for waiving, reducing, or mitigating Act
5 250 permit fees for persons of low income or other criteria.

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

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

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

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

19 Ninth: By striking out Sec. 29, effective dates, and its reader assistance
20 heading in their entirety and inserting in lieu thereof a new Sec. 29 and reader
21 assistance heading to read as follows:

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* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

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

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

(1) Secs. 6a, 7, 8, 8a, and 9 (conforming amendments to municipal river corridor planning) shall take effect on January 1, 2028, except that in Sec. 9, 24 V.S.A. § 4424(a)(2)(B)(i) (municipal compliance with the State Flood Hazard Area Standards) shall take effect on January 1, 2026;

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

(3) under Sec. 25 (basin planning), the requirement shall be effective for updated tactical basin plans that commence on or after January 1, 2025; and

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