

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.

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 annually thereafter, the Agency of Natural Resources  
11 shall update the Vermont Significant Wetlands Inventory (VSWI) maps and  
12 the Wetlands Advisory mapping layers for the Agency of Natural Resources’  
13 Natural Resources Atlas and as a shapefile on the Vermont Geodata Portal.  
14 The annual updates to the VSWI shall include integration of georeferenced  
15 shapefiles or similar files for all verified delineations performed within the  
16 State and submitted to the Agency of Natural Resources as part of a permit  
17 application, as well as a wetlands determination issued under section 914 of  
18 this title and rulemaking conducted pursuant to section 915 of this title. The  
19 Wetland Advisory layer shall include integration of any additional town  
20 specific inventories performed by consultants on the Agency’s Wetland

1 Consultant List if the consultant has presented the map to a municipality or the  
2 Agency of Natural Resources.

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

10 Sec. 4. 10 V.S.A. §§ 918 and 919 are added to read:

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

12 (a) On or before July 1, 2025, the Secretary of Natural Resources shall  
13 amend the Vermont Wetlands Rules to clarify that the goal of wetlands  
14 regulation and management in the State is the net gain of wetlands to be  
15 achieved through protection of existing wetlands and restoration of previously  
16 developed wetlands. As a condition of a permit for activity in a wetland, the  
17 Secretary shall require the net gain of wetlands. This condition shall not apply  
18 to wetland, river, and flood plain restoration projects, including dam removals.

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

1 avoided, the Secretary shall mandate that the permit applicant restore, enhance,  
2 or create wetlands or buffers to compensate for adverse effects on a wetland.  
3 The amount of wetlands to be restored, enhanced, or created shall be  
4 calculated, at a minimum, by determining the acreage or square footage of  
5 wetlands adversely affected by the permitted activity and multiplying the  
6 number of adversely affected acres or square feet by two, to result in ratio of  
7 2:1 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 wetlands that is larger than 5,000 square feet caused by the project that  
15 is 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 July 1, 2025.

- 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

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

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

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; and

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

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

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

19 (2) the results of each NWI Plus Mapping Project, including net acres  
20 mapped, dominant vegetative composition, connected tributaries, locations of

1 confirmed ground truthing, if applicable, and any other hydrologic soil or

2 vegetative observations or trends noted; and

3 (3) relevant updates related to Class I and Class II wetlands to include

4 additional wetlands identified under these categories, their composition and

5 general characteristics, potential threats, patterns of use, and other unique

6 features.

7 Sec. 5. 10 V.S.A. § 1274(a) is amended to read:

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

20 (1) Enjoin future discharges.



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

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

6           (4) Order the removal of all wastes discharged and the restoration of  
7 water quality.

8           ~~(4)~~(5) Fix and order compensation for any public property destroyed,  
9 damaged, or injured or any aquatic or terrestrial biota harmed or destroyed.

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

12           ~~(5)~~(6) Assess and award punitive damages.

13           ~~(6)~~(7) Levy civil penalties not to exceed \$10,000.00 a day for each day  
14 of violation.

15           ~~(7)~~(8) Order reimbursement to any agency of federal, State, or local  
16 government from any person whose discharge caused governmental  
17 expenditures.

## 18 Sec. 6. APPROPRIATIONS

19           In addition to other funds appropriated to the Agency of Natural Resources  
20 in fiscal year 2025, the amount of \$1,000,000.00 shall be appropriated from the  
21 General Fund, of which \$500,000.00 shall be used to fund wetlands mapping

1 required under this act, and of which \$500,000.00 shall be used to hire  
2 additional Agency of Natural Resources staff as necessary to comply with the  
3 requirements of Secs. 1–4 of this act.

4 \* \* \* Development in River Corridors \* \* \*

5 Sec. 7. 10 V.S.A. § 752 is amended to read:

6 § 752. DEFINITIONS

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

8 \* \* \*

9 (2) “Development,” for the purposes of flood hazard area management  
10 and regulation, ~~shall have~~ has the same meaning as “development” under  
11 44 C.F.R. § 59.1.

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

14 \* \* \*

15 (8) ~~“Uses exempt from municipal regulation” means land use or~~  
16 ~~activities that are exempt from municipal land use regulation under 24 V.S.A.~~  
17 ~~chapter 117. [Repealed.]~~

18 \* \* \*

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

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

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

7           § 754. FLOOD HAZARD AREA AND MAPPED RIVER CORRIDOR

8           ~~RULES; USES EXEMPT FROM MUNICIPAL REGULATION~~

9           (a) Rulemaking authority.

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

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

16           ~~(ii) State owned and operated institutions and facilities that are~~  
17           ~~located within a flood hazard area or river corridor~~ On or before January 1,  
18           2026, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that  
19           establish requirements for issuing and enforcing permits for development  
20           within a flood hazard area or a mapped river corridor in the State.

21           \* \* \*

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

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

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

8 (3) establish the requirements and process for a municipality to be  
9 delegated the State’s permitting authority for development in a flood hazard  
10 area or mapped river corridor that is not exempt from municipal regulation  
11 when the municipality has adopted a flood hazard bylaw or ordinance under  
12 24 V.S.A. chapter 117 that has been approved by the Secretary and that meets  
13 or exceeds the requirements established under State rule;

14 (4) set forth a process, in collaboration with the Agency of Commerce  
15 and Community Development and the Vermont Regional Planning  
16 Commissions, for amending the statewide River Corridor Base Map to identify  
17 areas within existing settlements suitable for development that will not cause  
18 or contribute to increases in fluvial erosion hazards; and

19 (e) ~~(5) Discretionary rulemaking. The rules required under this section may~~  
20 ~~establish~~ requirements that exceed the requirements of the National Flood  
21 Insurance Program ~~for uses exempt from municipal regulation, including~~

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

5 ~~(d)~~(c) General permit. The rules authorized by this section may establish  
6 requirements for a general permit to implement the requirements of this  
7 section, including authorization under the general permit to conduct a specified  
8 use exempt from municipal regulation without notifying or reporting to the  
9 Secretary or an agency delegated under subsection ~~(g)~~(f) of this section.

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

1        ~~(f)~~(e) Permit requirement. A Beginning on July 1, 2026, a person shall not  
2        commence or conduct ~~a use exempt from municipal regulation~~ development in  
3        a flood hazard area or mapped river corridor ~~in a municipality that has adopted~~  
4        ~~a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or~~  
5        ~~commence construction of a State owned and operated institution or facility~~  
6        ~~located within a flood hazard area or river corridor~~, without a permit issued  
7        under the rules required under subsection (a) of this section by the Secretary or  
8        by a State agency delegated permitting authority under subsection ~~(g)~~(f) of this  
9        section. When an application is filed under this section, the Secretary or  
10       delegated State agency shall proceed in accordance with chapter 170 of this  
11       title.

12        ~~(g)~~(f) Delegation.

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

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

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

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

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

1       Sec. 9. TRANSITION; IMPLEMENTATION

2           (a) The Secretary of Natural Resources shall adopt the rules required in  
3       Sec. 8 of this act, 10 V.S.A. § 754, on or before January 1, 2026. The effective  
4       date of the rules shall be July 1, 2026.

5           (b) Prior to the effective date of the rules required in Sec. 8 of this act,  
6       10 V.S.A. § 754, the Secretary of Natural Resources shall continue to  
7       implement the Vermont Flood Hazard Area and River Corridor Rule for  
8       development that is exempt from municipal regulation.

9           (c) The Secretary of Natural Resources shall not require a permit under  
10       10 V.S.A. § 754 for development in a flood hazard area or mapped river  
11       corridor for development that has the same meaning as “development” under  
12       44 C.F.R. § 59.1 for activities for which:

13           (1) all necessary local, State, or federal permits have been obtained prior  
14       to July 1, 2026 and the permit holder takes no subsequent act that would  
15       require a permit or registration under 10 V.S.A. chapter 32; or

16           (2) a complete application for all applicable local, State, and federal  
17       permits has been submitted on or before July 1, 2026, provided that the  
18       applicant does not subsequently file an application for a permit amendment  
19       that would require a permit under 10 V.S.A. chapter 32 and that substantial  
20       construction of the impervious surface or cleared area commences within two



1 years following the date on which all applicable local, State, and federal  
2 permits become final.

3 \* \* \* Dam Safety \* \* \*

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

5 CHAPTER 43. DAMS

6 § 1079. PURPOSE

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

10 § 1080. DEFINITIONS

11 As used in this chapter:

12 (1) “Department” means the Department of Environmental  
13 Conservation.

14 \* \* \*

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

17 \* \* \*

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

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

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

5 (ii) was partially breached; and

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

7 (C) “Dam” ~~shall~~ does not mean:

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

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

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

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

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

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

19 (7) “Federal dam” means:

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

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

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

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

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

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

12 § 1081. JURISDICTION OF DEPARTMENT ~~AND PUBLIC UTILITY~~  
13 ~~COMMISSION~~

14 (a) Powers and duties. Unless otherwise provided, the powers and duties  
15 authorized by this chapter shall be exercised by the Department, ~~except that the~~  
16 ~~Public Utility Commission shall exercise those powers and duties over~~  
17 ~~nonfederal dams and projects that relate to or are incident to the generation of~~  
18 ~~electric energy for public use or as a part of a public utility system. Nonfederal~~  
19 ~~dams at which the generation of electric energy is subject to licensing~~  
20 ~~jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1,~~

1 ~~shall not be under the jurisdiction of the Public Utility Commission of~~  
2 Environmental Conservation.

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

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

15 § 1082. AUTHORIZATION

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

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

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

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

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

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

4       § 1083. APPLICATION

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

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

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

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

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

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

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

1 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

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

7 § 1085. NOTICE OF APPLICATION

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

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

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

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

4 § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

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

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

12 (2) scenic and recreational values;

13 (3) fish and wildlife;

14 (4) forests and forest programs;

15 (5) [Repealed.]

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

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

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



- 1 (9) the creation of any public benefits;
- 2 (10) attainment of the Vermont water quality standards;
- 3 (11) any applicable State, regional, or municipal plans;
- 4 (12) municipal grand lists and revenues;
- 5 (13) public safety; and
- 6 (14) in the case of the proposed removal of a dam that formerly related  
7 to or was incident to the generation of electric energy, but that was not subject  
8 to a memorandum of understanding dated prior to January 1, 2006 relating to  
9 its removal, the potential for and value of future power production.

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

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

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

7 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

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

18 § 1089. EMPLOYMENT OF ENGINEER

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

1 the ~~State agency~~ Department shall deem necessary, ~~and such~~. The engineer  
2 conducting an investigation under this section shall be an employee of the  
3 Department or shall be operating under the supervision of the Department as  
4 an independent consultant. The engineer shall report to the ~~State agency his or~~  
5 ~~her~~ Department the engineer's findings in respect thereto and the Department  
6 shall approve or disapprove the findings.

7 § 1090. CONSTRUCTION SUPERVISION

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

13 § 1091. LIABILITY FOR DAM BREACH

14 Any person who owns legal title to a dam or the owner of land on which a  
15 dam is located shall be held strictly, jointly, and severally liable for harm  
16 caused by the breach of a dam, provided:

17 (1) a dam has been classified as a significant or high-hazard potential  
18 dam by the Department; or

19 (2) the person who owns legal title to a dam or the owner of land on  
20 which a dam is located is not in full compliance with any Department rules

1 related to dam safety, including rules that set standards for dam design,  
2 construction, and maintenance to protect public safety.

3 § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

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

18 (b) If, upon the expiration of ~~such~~ a date as may be ordered, the person  
19 owning legal title to ~~such~~ the dam or the owner of the land on which the dam is  
20 located has not complied with the order directing the reconstruction, repair,  
21 breaching, removal, draining, or other action of ~~such~~ the unsafe dam, the ~~State~~

1 ~~agency having jurisdiction may petition the Superior Court in the county in~~  
2 ~~which the dam is located to enforce its order or exercise the right of eminent~~  
3 ~~domain to acquire the rights that may be necessary to effectuate a remedy as~~  
4 ~~the public safety or public good may require. If the order has been appealed,~~  
5 ~~the court may prohibit the exercise of eminent domain by the State agency~~  
6 ~~having jurisdiction pending disposition of the appeal Department may take~~  
7 ~~further enforcement action, including the levying of fines for noncompliance.~~

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

13 § 1099. APPEALS

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

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

18 \* \* \*

1 § 1105. INSPECTION OF DAMS

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

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

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

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

14 (c) Dam safety reports. If a dam inspection report is completed by the  
15 ~~State agency having jurisdiction, the agency~~ Department, the Department shall  
16 provide the person owning legal title to the dam or the owner of the land on  
17 which the dam is located with a copy of the inspection report and shall make  
18 all inspection reports available on the Department website for public review.

19 For dams owned by the State, the Department shall provide the inspection  
20 report to the designated point of contact for the dam at the State entity owning

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

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

9 § 1106. UNSAFE DAM SAFETY REVOLVING LOAN FUND

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18       § 1107. HAZARD POTENTIAL CLASSIFICATIONS

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

1 Inventory based on the potential loss of human life, property damage, and  
2 economic loss that would occur in the event of the failure of the dam. There  
3 shall be four hazard potential classifications: high, significant, low, and  
4 minimal.

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

8 \* \* \*

9 § 1110. RULEMAKING

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

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

15 (2) standards for:

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

18 (B) operation and maintenance of a dam;

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

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

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

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

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

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

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

11 (6) requirements for access to financing and subsidy from the Dam  
12 Safety Revolving Loan Fund; and

13 (7) requirements and criteria for an alternative analysis, including that it  
14 be conducted by an independent third party and is necessary for eligibility for  
15 nonemergency funding from the Unsafe Dam Fund.

16 § 1111. ~~NATURAL RESOURCES ATLAS; DAM STATUS~~

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

20 [Repealed.]

21 \* \* \* Basin Planning \* \* \*

1 Sec. 11. 10 V.S.A. § 1253(d) is amended to read:

2 (d)(1) Through the process of basin planning, the Secretary shall determine  
3 what degree of water quality and classification should be obtained and  
4 maintained for those waters not classified by the Board before 1981 following  
5 the procedures in sections 1254 and 1258 of this title. Those waters shall be  
6 classified in the public interest. The Secretary shall prepare and maintain an  
7 overall surface water management plan to assure that the State water quality  
8 standards are met in all State waters. The surface water management plan shall  
9 include a schedule for updating the basin plans. The Secretary, in consultation  
10 with regional planning commissions and the Natural Resources Conservation  
11 Council, shall revise all 15 basin plans and update the basin plans on a five-  
12 year rotating basis. On or before January 15 of each year, the Secretary shall  
13 report to the House Committees on Agriculture, Food Resiliency, and Forestry  
14 and on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy and to  
15 the Senate Committees on Agriculture and on Natural Resources and Energy  
16 regarding the progress made and difficulties encountered in revising basin  
17 plans. The report shall include a summary of basin planning activities in the  
18 previous calendar year, a schedule for the production of basin plans in the  
19 subsequent calendar year, and a summary of actions to be taken over the  
20 subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of  
21 required reports) shall not apply to the report to be made under this subsection.

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

2 (A) identify waters that should be reclassified outstanding resource  
3 waters or that should have one or more uses reclassified under section 1252 of  
4 this title;

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

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

8 \* \* \*

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

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

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

#### 15 Sec. 12. DAM SAFETY DIVISION POSITIONS

16 In addition to other funds appropriated to the Agency of Natural Resources  
17 in fiscal year 2025, \$350,000.00 is appropriated to the Agency for the purposes  
18 of funding three new permanent full-time classified positions in the Dam  
19 Safety Division of the Department of Environmental Conservation.

20 \* \* \* Expanded Polystyrene Foam \* \* \*

21 Sec. 13. 10 V.S.A. chapter 47, subchapter 2B is added to read:

1 Subchapter 2B. Expanded Polystyrene Foam

2 § 1321. DEFINITIONS

3 As used in this subchapter:

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

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

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

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

18 (5) “Floating structure” means a structure constructed on or in a water of  
19 the State that is supported by flotation and is secured in place by a piling or  
20 mooring anchor, including boathouses, fueling structures, floating homes,  
21 marinas, walkways, or boarding platforms.



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

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

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

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

6           § 1322. INSTALLATION, REPAIR, REMOVAL, AND SALE OF BUOYS,

7                   DOCKS, OR FLOATING STRUCTURES

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

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

16           (c) Methods of encapsulation.

17                   (1) Encapsulation of a buoy, dock, or floating structure required under  
18 subsection (a) of this section shall completely cover or be a physical barrier  
19 between the expanded polystyrene foam and the water. Small gaps up to 0.75-  
20 inch diameter ballast holes are permitted in the physical barrier or covering

1 provided they are 0.1 percent or less of the square footage of the buoy, dock, or  
2 floating structure.

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

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

11 (e) Removal from water. Unused or replaced polystyrene foam shall be  
12 removed from the waters of the State and shall be recycled or disposed of in an  
13 approved manner.

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

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

19 or

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

1        (g) Use of unencapsulated flotation devices. The use of all existing  
2        unencapsulated expanded polystyrene foam flotation devices shall be deemed  
3        nonconforming and prohibited on April 1, 2026 and shall thereafter be subject  
4        to enforcement and removal.

5        § 1323. NUISANCE

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

11       § 1324. RULEMAKING

12       The Secretary may adopt rules to implement the requirements of this  
13       subchapter, including:

14           (1) methods or materials for encapsulation of expanded polystyrene  
15        foam; or

16           (2) exemptions from the requirements under this chapter to encapsulate  
17        expanded polystyrene foam.

18       Sec. 14. APPROPRIATIONS

19       The amount of \$50,000.00 shall be appropriated from the General Fund to  
20       the Department of Environmental Conservation for use by the Lakes and Ponds  
21       Program for staffing requirements and distribution, if necessary, as grants to

1 lake and pond associations and similar groups to assist lakeshore residents,  
2 businesses, and organizations with the replacement of existing unencapsulated  
3 devices.

4 \* \* \* Effective Dates \* \* \*

5 Sec. 15. EFFECTIVE DATES

6 (a) This section and Sec. 10, 10 V.S.A. ? (Dam Safety Revolving Loan  
7 Fund) shall take effect on passage.

8 (b) Sec 10 (jurisdictional transfer) shall take effect July 1, 2024, provided  
9 that the Agency shall publish a schedule by January 1, 2025, for jurisdictional  
10 transfer from PUC to ANR based on the presumed hazard classification of  
11 each dam.

12 (1) By July 1, 2025, the Agency shall assume jurisdiction over dams  
13 with a high hazard classification.

14 (2) By July 1, 2028, the Agency shall assume jurisdiction over all other  
15 dams.

16 (c) Sec 10 (Dam Safety Revolving Loan Fund), funding shall be available  
17 for nonemergency use upon the completion of rulemaking in (d) of this  
18 Section.

19 (d) Sec 10 (rulemaking) §1110 rulemaking for (6) and (7) shall be  
20 completed on July 1, 2027.

1           (e) Sec 11 (basin planning) shall be effective for updated Tactical Basin  
2           Plans that commence on or after January 1, 2025.  
3           (f) Secs. 13 (expanded polystyrene foam requirements) and Sec. 14  
4           (appropriations) shall take effect on July 1, 2024, except that 10 V.S.A. § 1324  
5           (ANR rulemaking) shall take effect on passage.

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE