

*** Wetlands ***

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

§ 901. WATER RESOURCES MANAGEMENT POLICY

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

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

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

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

Sec. 2. 10 V.S.A. § 916 is amended to read:

§ 916. ~~REVISION~~ UPDATE OF VERMONT SIGNIFICANT WETLAND INVENTORY

MAPS

~~The Secretary shall revise the Vermont significant wetlands inventory maps to reflect wetland determinations issued under section 914 of this title and rulemaking by the panel under section 915 of this title.~~

(a) On or before January 1, 2026, and no less than annually thereafter, the Agency of Natural Resources shall update the Vermont Significant Wetlands Inventory (VSWI) maps. The annual updates to the VSWI shall include integration of georeferenced shapefiles or similar files

1 for all verified delineations performed within the State and submitted to the Agency of Natural
2 Resources as part of a permit application, as well as a wetlands determination issued under
3 section 914 of this title and rulemaking conducted pursuant to section 915 of this title.

4 (b) On or before January 1, 2030, the Secretary of Natural Resources shall complete High
5 Quality National Wetlands Inventory (NWI) Plus level mapping for all of the tactical basins in
6 the State. The high-quality mapping shall include a ground truthing component, as recommended
7 by the U.S. Fish and Wildlife Service (USFWS). Once all tactical basins are mapped, the
8 Agency shall 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. 3. 10 V.S.A. § 919 is added to read:

11 § 919. WETLANDS PROGRAM REPORT

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

16 (1) the location and acreage of Class II wetland losses permitted by the Agency in
17 accordance with Section 913 of this Chapter, for which construction of the permitted project has
18 commenced;

19 (2) The acreage of Class II wetlands gained through permit-related enhancement
20 and restoration; and

1 (3) any enforcement actions that were taken by the Agency or the Attorney
2 General's office in the previous year for violations of this Chapter.

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

7 (1) Mitigation requirements associated with projects permitted pursuant to Section
8 913 of this Chapter, and a summary of compensatory fees paid in to the In-Lieu-Fee Program in
9 Vermont;

10 (2) the total number of projects reviewed by the Agency;

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

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

16 (5) Total losses, alterations and gains included in permit decision for Class I and Class II
17 wetlands and buffer zones.

18

19 *** Development in River Corridors***

20 Sec. X. 10 V.S.A. § 752 is amended to read:

21 § 752. DEFINITIONS

1 the National Flood Insurance Program shall be designed to prevent or limit a risk of harm to life,
2 property, or infrastructure from flooding.

3 * * *

4 (f)(1) Permit requirement.

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

13 (B) Beginning on November 1, 2024, a person shall not commence construction of a
14 development or subdivision that is subject to a permit under chapter 151 of this title without a
15 permit issued pursuant under the rules required under subsection (a) of this section by the
16 Secretary or by a State agency delegated permitting authority under subsection (g) of this
17 section.

18 * * *

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

1 municipal regulation, and any municipal flood hazard area bylaw or ordinance adopted by a
2 municipality enrolled in the NFIP complies with the requirements of the State Flood Hazard
3 Area Standards as described in Section 755 of this Chapter.

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

5 § 755. REQUIRED STATE FLOOD HAZARD AREA STANDARDS; MUNICIPAL
6 EDUCATION; MODEL FLOOD HAZARD AREA BYLAW OR ORDINANCE

7 (a) Required municipal flood hazard area standards.

8 (1) Rulemaking authority. On or before January 1, 2026 the Secretary shall adopt
9 rules that establish a set of Flood Hazard Area Standards required to be adopted and
10 administered by all municipalities enrolled in the National Flood Insurance Program.

11 (2) Required content of the rules. The rules shall contain flood hazard area
12 standards that exceed the minimum standards of the National Flood Insurance Program
13 by reducing flood risk to new development and ensuring new development does not
14 create adverse impacts to adjacent pre-existing development.

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

20 (4) Any Municipality that participates in the National Flood Insurance Program
21 (NFIP) shall update their flood hazard standards to comply with the State standards by

1 January 1, 2028. For any NFIP participating community that has not updated the local
2 bylaw or ordinance by January 1, 2028 the State Flood Hazard Area Standard rules shall
3 become the applicable standard for regulating development in any flood hazard area.

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

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

19 Sec. X. 24 V.S.A. § 4302(c)(14) shall be amended to read:

20 14. To encourage flood resilient communities.

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

1 exacerbate flooding and fluvial erosion. To minimize impacts in flood hazard areas,
2 municipalities participating in the National Flood Insurance Program shall adopt flood hazard
3 area bylaws that meet or exceed the statewide minimum flood hazard area standards established
4 in rule by the Agency of Natural Resources.

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

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

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

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

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

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

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

21 Sec. X. 24 V.S.A. § 4424 is amended to read:

1 (a) Bylaws; flood and other hazard areas; river corridor protection. Any municipality may adopt
2 freestanding bylaws under this chapter to address particular hazard areas in conformance with
3 the municipal plan, the state Flood Hazard Area Rules, or, for the purpose of adoption of a flood
4 hazard area bylaw, a local hazard mitigation plan approved under [44 C.F.R. § 201.6](#). Such
5 freestanding bylaws may include the following, which may also be part of zoning or unified
6 development bylaws:

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

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

11 (A) Purposes.

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

16 (ii) To ensure that the design and construction of development in flood, river
17 corridor protection, and other hazard areas are accomplished in a manner that
18 minimizes or eliminates the potential for flood and loss or damage to life and
19 property and ensures new development will not adversely affect existing
20 development in a flood hazard area, or that minimizes the potential for fluvial
21 erosion and loss or damage to life and property in a river corridor protection area.

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

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

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

5 (i) Shall require compliance with the State Flood Hazard Area Standards
6 established in rule pursuant to 10 VSA § 755(c) and meet all additional requirements
7 under the National Flood Insurance Program as set forth in 44 CFR 60.3. ~~Contain~~
8 ~~standards and criteria that prohibit the placement of damaging obstructions or structures,~~
9 ~~the use and storage of hazardous or radioactive materials, and practices that are known to~~
10 ~~further exacerbate hazardous or unstable natural conditions.~~

11 (ii) May contain standards for river corridor protection to minimize fluvial erosion
12 hazards. Require flood, fluvial erosion, and hazard protection through elevation,
13 floodproofing, disaster preparedness, hazard mitigation, relocation, or other techniques.

14 (iii) ~~Require adequate provisions for flood drainage and other emergency~~
15 ~~measures.~~

16 (iv) ~~Require provision of adequate and disaster resistant water and wastewater~~
17 ~~facilities.~~

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

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

4 (C) Effect on zoning bylaws. Flood or other hazard area bylaws may alter the uses
5 otherwise permitted, prohibited, or conditional in a flood or other hazard area under a bylaw, as
6 well as the applicability of other provisions of that bylaw. Where a flood hazard bylaw, a hazard
7 area bylaw, or both apply along with any other bylaw, compliance with the flood or other hazard
8 area bylaw shall be prerequisite to the granting of a zoning permit. Where a flood hazard area
9 bylaw or a hazard area bylaw but not a zoning bylaw applies, the flood hazard and other hazard
10 area bylaw shall be administered in the same manner as are zoning bylaws, and a flood hazard
11 area or hazard area permit shall be required for land development covered under the bylaw.

12 (D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all
13 flood and other hazard area bylaws shall provide that no permit for new construction or
14 substantial improvement shall be granted for a flood or other hazard area until after both the
15 following:

16 (I) A copy of the application is mailed or delivered by the administrative officer
17 or by the appropriate municipal panel to the Agency of Natural Resources or its designee,
18 which may be done electronically, provided the sender has proof of receipt.

19 (II) Either 30 days have elapsed following the mailing or the Agency or its
20 designee delivers comments on the application.

21 (ii) The Agency of Natural Resources may delegate to a qualified representative of a
22 municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a

1 regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review
2 and provide technical comments on a proposed permit for new construction or substantial
3 improvement in a flood hazard area. Comments provided by a representative delegated under this
4 subdivision (a)(2)(D) shall not be binding on a municipality.

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

8 * * *

9 *** Dam Safety ***

10 Sec. 11. 10 V.S.A. § 1106 is amended to read:

11 § 1106. ~~UNSAFE DAM~~ SAFETY REVOLVING LOAN FUND

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

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

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

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

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 found to be
10 unsafe or a menace to public safety under section 1095 of this title. The Dam Safety
11 Program shall be able to access the fund on behalf of owners in cases of emergency,
12 immediate need, or in the case of unwilling or unable dam owners.

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

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

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

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

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

9 (E) To be eligible for nonemergency funding, an alternatives analysis of
10 dam repair, rehabilitation, and removal options must be completed pursuant to rules adopted by
11 the Department.

12 ~~(b)~~(c) The Fund created by this section shall be established and held separate and apart
13 from any other funds or monies of the State and shall be used and administered exclusively for
14 the purposes set forth in this section. The funds shall be invested in the same manner as
15 permitted for investment of funds belonging to the State or held in the Treasury. The Fund shall
16 consist of the following:

17 (1) Such sums as may be appropriated or transferred thereto from time to time by
18 the General Assembly, the Emergency Board, or the Joint Fiscal Committee during such
19 times as the General Assembly is not in session.

20 (2) Principal and interest received from the repayment of loans made from the
21 Fund.

1 (3) Capitalization grants and awards made to the State by the United States of
2 America for the purposes for which the Fund has been established.

3 (4) Interest earned from the investment of Fund balances.

4 (5) Private gifts, bequests, and donations made to the State for the purposes for
5 which the Fund has been established.

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

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

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

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

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

