

1 H.37

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; dams; dam safety; inspection

6 Statement of purpose of bill as introduced: The bill would require the owner  
7 of a dam in the State to register the dam with the Department of Environmental  
8 Conservation. The bill would also establish a process by which the  
9 Department of Environmental Conservation may designate a dam over which it  
10 has jurisdiction as abandoned.

11 An act relating to the safety and regulation of dams

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 \* \* \* Registration and Inspection of Dams \* \* \*

14 Sec. 1. 10 V.S.A. chapter 43 is amended to read:

15 CHAPTER 43. DAMS

16 § 1080. DEFINITIONS

17 As used in this chapter:

18 (1) "Department" means the ~~department of environmental conservation~~  
19 Department of Environmental Conservation.

1           (2) “Person” means any individual; partnership; company; corporation;  
2           association; joint venture; trust; municipality; the ~~state~~ State of Vermont or any  
3           agency, department, or subdivision of the ~~state~~ State, any federal agency, or  
4           any other legal or commercial entity.

5           (3) “Person in interest” means, in relation to any dam, a person who has  
6           riparian rights affected by that dam, a substantial interest in economic or  
7           recreational activity affected by the dam, or whose safety would be endangered  
8           by a failure of the dam.

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

11          (5) “Time” shall be reckoned in the manner prescribed by 1 V.S.A.  
12          § 138.

13          (6)(A) “Dam” means any artificial barrier, including its appurtenant  
14          works, that is capable of impounding water, other liquids, or accumulated  
15          sediments and that is:

16                  (i) located on a perennial stream; or

17                  (ii) capable of impounding 500,000 cubic feet or more of water or  
18          liquids regardless of location.

19          (B) “Dam” includes artificial barriers that previously were capable of  
20          impounding water or other liquids but that have not been properly removed or  
21          mitigated.

1           (C) “Dam” shall not mean:

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

4                   (ii) a highway culvert if its invert at the natural bed of a surface  
5 water has adequate discharge capacity and does not impound water under  
6 normal circumstances;

7                   (iii) an artificial barrier at a stormwater detention basin, which is  
8 regulated by the Agency of Natural Resources under chapter 47 of this title,  
9 except for a stormwater retention basin that is 10 feet or more in height or that  
10 has a stormwater retention basin with a maximum storage of 6 acre-feet or  
11 greater;

12                   (iv) municipal underground or elevated tanks to store water;

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

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

16           (7) “Pond” means a natural body of water with a volume exceeding  
17 500,000 cubic feet.

18       § 1081. JURISDICTION OF DEPARTMENT AND PUBLIC SERVICE

19                   BOARD

20           (a) Unless otherwise provided, the powers and duties authorized by this  
21 chapter shall be exercised by the ~~department, except that the public service~~  
22 ~~board~~ Department, except that the Public Service Board shall exercise those

1 powers and duties over dams and projects that relate to or are incident to the  
2 generation of electric energy for public use or as a part of a public utility  
3 system.

4 (b) Transfer of jurisdiction. Jurisdiction over a dam is transferred from the  
5 ~~department~~ Department to the ~~public service board~~ Public Service Board  
6 whenever the Federal Energy Regulatory Commission grants a license to  
7 generate electricity at the dam or whenever the ~~public service board~~ Public  
8 Service Board receives an application for a certificate of public good for  
9 electricity generation at that dam. Jurisdiction is transferred from the ~~public~~  
10 ~~service board~~ Public Service Board to the ~~department~~ Department whenever  
11 such a federal license expires or is otherwise lost, whenever such a certificate  
12 of public good is revoked or otherwise lost, or whenever the ~~public service~~  
13 ~~board~~ Public Service Board denies an application for a certificate of public  
14 good.

15 (c) Upon transfer of jurisdiction as set forth above and upon written  
16 request, the ~~state~~ State agency having former jurisdiction shall transfer copies  
17 of all records pertaining to the dam to the agency acquiring jurisdiction.

18 § 1082. AUTHORIZATION

19 (a) ~~No person shall construct, enlarge, raise, lower, remodel, reconstruct, or~~  
20 ~~otherwise alter any dam, pond or impoundment or other structure which is or~~  
21 ~~will be capable of impounding more than 500,000 cubic feet of water or other~~  
22 ~~liquid after construction or alteration, or remove, breach, or otherwise lessen~~

1 ~~the capacity of an existing dam that is or was capable of impounding more than~~  
2 ~~500,000 cubic feet within or along the borders of this state where land in this~~  
3 ~~state is proposed to be overflowed, or at the outlet of any body of water within~~  
4 ~~this state, unless authorized by the state agency having jurisdiction so to do.~~  
5 ~~However, in the matter of flood control projects where cooperation with the~~  
6 ~~federal government is provided for by the provisions of section 1100 of this~~  
7 ~~title that section shall control~~ (1) Except as provided in subdivision (2) of this  
8 subsection, a person shall not conduct any of the following activities unless  
9 authorized by the Department or the Public Service Board:

10 (A) construct, enlarge, raise, lower, remodel, reconstruct, or  
11 otherwise alter any dam capable of impounding more than 500,000 cubic feet  
12 of water or other liquid;

13 (B) construct, enlarge, raise, lower, remodel, reconstruct, or  
14 otherwise alter the natural outlet of a pond capable of impounding more than  
15 500,000 cubic feet of water or other liquid; or

16 (C) remove, breach, or otherwise lessen the capacity of an existing  
17 dam capable of impounding more than 500,000 cubic feet of water or other  
18 liquid.

19 (2) The relevant requirements of sections 1100 and 1103 of this title  
20 shall govern the authorization of a flood control project involving construction  
21 by or State cooperation with the federal government.

1 (b) For the purposes of this chapter, the volume a dam or other structure is  
2 capable of impounding is the volume of water or other liquid, including any  
3 accumulated sediments, controlled by the structure with the water or liquid  
4 level at the top of the highest nonoverflow part of the structure.

5 § 1083. APPLICATION

6 (a) Any person who proposes to undertake an action subject to regulation  
7 pursuant to section 1082 of this title shall apply in writing to the ~~state agency~~  
8 ~~having jurisdiction~~, Department or the Public Service Board and shall give  
9 notice thereof to the governing body of the municipality or municipalities in  
10 which the dam or any part of the dam is to be located. The application shall  
11 set forth:

12 (1) the location;<sub>;</sub> the height, length and other dimensions;<sub>;</sub> and any  
13 proposed changes to any existing dam;

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

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

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

20 (5) other information that the ~~state agency having jurisdiction~~  
21 Department or the Public Service Board considers necessary to ~~properly~~  
22 review properly the application.

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

3 § 1083a. ~~AGRICULTURAL DAMS~~

4 (a) ~~Notwithstanding the provisions of sections 1082, 1083, 1084, and 1086~~  
5 ~~of this title, the owners of an agricultural enterprise who propose, as an integral~~  
6 ~~and exclusive part of the enterprise, to construct or alter any dam, pond or~~  
7 ~~impoundment or other structure requiring a permit under section 1083 shall~~  
8 ~~apply to the natural resources conservation district in which his land is located.~~  
9 ~~The natural resources conservation districts created under the provisions of~~  
10 ~~chapter 31 of this title shall be the state agency having jurisdiction and shall~~  
11 ~~review and approve the applications in the same manner as would the~~  
12 ~~department. The districts may request the assistance of the department for any~~  
13 ~~investigatory work necessary for a determination of public good and for any~~  
14 ~~review of plans and specifications as provided in section 1086.~~

15 (b) ~~As used in this section, “agricultural enterprise” means any farm,~~  
16 ~~including stock, dairy, poultry, forage crop and truck farms, plantations,~~  
17 ~~ranches and orchards, which does not fall within the definition of “activities~~  
18 ~~not engaged in for a profit” as defined in Section 183 of the Internal Revenue~~  
19 ~~Code and regulations relating thereto. The growing of timber does not in itself~~  
20 ~~constitute farming.~~

21 (c) ~~Notwithstanding the provisions of this section, jurisdiction shall revert~~  
22 ~~to the department when there is a change in use or when there is a change in~~

1 ~~ownership which affects use. In those cases the department may, on its own~~  
2 ~~motion, hold meetings in order to determine the effect on the public good and~~  
3 ~~public safety. The department may issue an order modifying the terms and~~  
4 ~~conditions of approval.~~

5 ~~(d) The natural resources conservation districts may adopt any rules~~  
6 ~~necessary to administer this chapter. The districts shall adhere to the~~  
7 ~~requirements of chapter 25 of Title 3 in the adoption of those rules.~~

8 ~~(e) Notwithstanding the provisions of chapter 7 of Title 3, the attorney~~  
9 ~~general shall counsel the districts in any case where a suit has been instituted~~  
10 ~~against the districts for any decision made under the provisions of this chapter.~~

11 [Repealed.]

12 § 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

13 ~~The commissioner of fish and wildlife~~ Commissioner of Fish and Wildlife  
14 shall investigate the potential effects on fish and wildlife habitats of any  
15 proposal subject to section 1082 of this title and shall certify the results to the  
16 ~~state agency having jurisdiction~~ Department or the Public Service Board prior  
17 to any hearing or meeting relating to the determination of public good and  
18 public safety.

19 § 1085. NOTICE OF APPLICATION

20 Upon receipt of the application required by section 1082 of this title, the  
21 ~~state agency having jurisdiction~~ Department or the Public Service Board shall  
22 give notice to all persons interested.

1           ~~(1) For any project subject to its jurisdiction under this chapter, on~~ On  
2           the petition of 25 or more persons, the ~~department~~ Department or the Public  
3           Service Board shall, or on its own motion it may, hold a public information  
4           meeting in a municipality in the vicinity of the proposed project to hear  
5           comments on whether the proposed project serves the public good and  
6           provides adequately for the public safety. Public notice shall be given by  
7           posting in the municipal offices of the towns in which the project will be  
8           completed and by publishing in a local newspaper at least 10 days before the  
9           meeting.

10           ~~(2) For any project subject to its jurisdiction under this chapter, the~~  
11           ~~public service board shall hold a hearing on the application. The purpose of~~  
12           ~~the hearing shall be to determine whether the project serves the public good as~~  
13           ~~defined in section 1086 of this title and provides adequately for the public~~  
14           ~~safety. The hearing shall be held in a municipality in the vicinity of the~~  
15           ~~proposed project and may be consolidated with other hearings, including~~  
16           ~~hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be~~  
17           ~~given at least 10 days before the hearing to interested persons by posting in the~~  
18           ~~municipal offices of the towns in which the project will be completed and by~~  
19           ~~publishing in a local newspaper.~~

20           § 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

21           (a) “Public good” means the greatest benefit of the people of the State. In  
22           determining whether the public good is served, the ~~State agency having~~

1 ~~jurisdiction~~ Department or the Public Service Board shall give due  
2 consideration to, among other things, ~~to~~ the effect the proposed project will  
3 have on:

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

7 (2) scenic and recreational values;

8 (3) fish and wildlife;

9 (4) forests and forest programs;

10 (5) the need for a minimum water discharge flow rate schedule to  
11 protect the natural rate of flow and the water quality of the affected waters;

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

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

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

18 (9) the creation of any public benefits;

19 (10) consistency with the Vermont water quality standards and the  
20 classification, if any, of the affected waters under chapter 47 of this title;

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

22 (12) municipal grand lists and revenues;

1 (13) public safety; and

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

6 (b) If the ~~State agency having jurisdiction~~ Department or the Public Service  
7 Board finds that the proposed project will serve the public good, and, in case of  
8 any waters designated by the Secretary as outstanding resource waters, will  
9 preserve or enhance the values and activities sought to be protected by  
10 designation, the ~~agency~~ Department or the Public Service Board shall issue its  
11 order approving the application. The order shall include conditions for  
12 minimum stream flow to protect fish and instream aquatic life, as determined  
13 by the Agency of Natural Resources, and such other conditions as the ~~agency~~  
14 ~~having jurisdiction~~ Department or the Public Service Board considers  
15 necessary to protect any element of the public good listed ~~above~~ in subsection  
16 (a) of this section. Otherwise it shall issue its order disapproving the  
17 application.

18 (c) The ~~Agency~~ Department or the Public Service Board shall provide the  
19 applicant and interested parties with copies of its order.

20 (d) ~~In the case of a proposed removal of a dam that is under the jurisdiction~~  
21 ~~of the Department and that formerly related to or was incident to the generation~~  
22 ~~of electric energy but that was not subject to a memorandum of understanding~~

1 ~~dated before January 1, 2006 relating to its removal, the Department shall~~  
2 ~~consult with the Department of Public Service regarding the potential for and~~  
3 ~~value of future power production at the site. [Repealed.]~~

4 § 1087. REVIEW OF PLANS AND SPECIFICATIONS

5 Upon receipt of an application, the ~~state agency having jurisdiction~~  
6 Department or the Public Service Board shall employ ~~a registered~~ an engineer  
7 experienced in the design and investigation of dams to investigate the property,  
8 review the plans and specifications, and make additional investigations as it  
9 considers necessary to ensure that the project adequately provides for the  
10 public safety. The engineer shall report his or her findings to the ~~agency~~  
11 Department or the Public Service Board.

12 § 1089. EMPLOYMENT OF ~~HYDRAULIC~~ ENGINEER

13 With the approval of the ~~governor~~ Governor, the ~~state agency having~~  
14 ~~jurisdiction~~ Department or the Public Service Board may employ ~~a competent~~  
15 ~~hydraulic~~ an engineer to investigate the property, review the plans and  
16 specifications, and make such additional investigation as ~~such agency~~ the  
17 Department or the Public Service Board shall deem necessary, and such  
18 engineer shall report to the ~~agency~~ Department or the Public Service Board his  
19 or her findings in respect thereto.

20 § 1090. CONSTRUCTION SUPERVISION

21 The construction, alteration, or other action authorized in section 1086 of  
22 this title shall be supervised by ~~a registered~~ an engineer employed by the

1 applicant. Upon completion of the authorized project, the engineer shall  
2 certify to the ~~agency having jurisdiction~~ Department or the Public Service  
3 Board that the project has been completed in conformance with the approved  
4 plans and specifications.

5 § 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

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

19 (b) If, upon the expiration of such date as may be ordered, the owner of  
20 such dam has not complied with the order directing the reconstruction, repair,  
21 breaching, removal, draining, or other action of such unsafe dam, the ~~state~~  
22 ~~agency having jurisdiction~~ Department or the Public Service Board may

1 petition the ~~superior court~~ Superior Court in the county in which the dam is  
2 located to enforce its order or exercise the right of eminent domain to acquire  
3 such rights as may be necessary to effectuate a remedy as the public safety or  
4 public good may require. If the order has been appealed, the ~~court~~ Court may  
5 prohibit the exercise pending disposition of the appeal.

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

11 \* \* \*

12 § 1098. REMOVAL OF OBSTRUCTIONS; APPROPRIATION

13 The ~~department~~ Department may contract for the removal of sandbars,  
14 debris, or other obstructions from streams which the ~~department~~ Department  
15 finds that while so obstructed may be a menace in time of flood, or endanger  
16 property or life below, or the property of riparian owners. The expense of  
17 investigation and removal of the obstruction shall be paid by the ~~state~~ State  
18 from funds provided for that purpose.

19 § 1099. APPEALS

20 (a) Appeals of any act or decision of the ~~department~~ Department under this  
21 chapter shall be made in accordance with chapter 220 of this title.

1 (b) Appeals from actions or orders of the ~~public service board~~ Public  
2 Service Board may be taken in the ~~supreme court~~ Supreme Court in accord  
3 with 30 V.S.A. § 12.

4 \* \* \*

5 § 1104. DAM REGISTRATION

6 (a) Application of section. The requirements of this section shall apply to  
7 all dams in the State within the jurisdiction of the Department regardless of  
8 whether the dam is permitted or approved under this chapter. The rules of the  
9 Public Service Board shall control the regulation and inspection of dams and  
10 projects over which the Public Service Board has jurisdiction.

11 (b) Dam registration.

12 (1) A person owning legal title to a dam shall register the dam with the  
13 Department according to the following schedule:

14 (A) on or before April 1, 2016, for a dam capable of impounding  
15 500,000 cubic feet or more of water or other liquid shall register; and

16 (B) on or before April 1, 2017 for all other dams.

17 (2) The Department shall provide a registration form to persons owning  
18 legal title to a dam.

19 (c) Dam operation fee. Beginning one year from the date of dam  
20 registration under subsection (b) of this section, the person in whose name the  
21 dam is registered shall pay the annual dam safety program operation fee set  
22 forth under 3 V.S.A. § 2822.

1       (d) No owner of legal title. If no person owns legal title to a dam, the  
2       person owning the property on which the dam is located shall submit the  
3       registration and operation fee required under subsections (b) and (c) of this  
4       section.

5       (e) Department identification of dam. The Department shall use hazard  
6       classification standards that are equivalent to the standards for low, significant,  
7       and high hazard dams under the U.S. Army Corps of Engineers Hazard  
8       Potential Classification of Dams, under 33 C.F.R. § 222.6. The Department  
9       may designate a dam as an undetermined hazard dam when it lacks  
10      information sufficient to classify it as a low, significant, or high hazard dam.

11      (f) Failure to submit registration. If the Department identifies the owner of  
12      an unregistered dam, the Department shall notify the owner of the requirement  
13      to register the dam under this section. The owner of a dam who receives notice  
14      of required registration under this subsection shall have 60 days from the date  
15      of the Department's notice to submit a complete dam registration form to the  
16      Department.

17      (g) Dam safety inspection. The Department shall deposit fees collected  
18      under 3 V.S.A. § 2822(j)(12)(B) into the Environmental Permit Fund under  
19      3 V.S.A. § 2805 and shall use the fees to implement the requirements of this  
20      chapter.

21      (h) Designation of dam as abandoned. If an owner of a dam classified as  
22      an undetermined hazard fails to submit to the Department the dam registration

1 form required by this section, the dam may be designated an abandoned dam  
2 subject to the provisions of section 1104a of this title.

3 (i) Failure to file dam evaluation report. If an owner of a dam fails to  
4 submit the dam registration form as required under subsection (b) of this  
5 section, the Department may inspect the dam or retain an engineer retained to  
6 inspect the dam. The Department shall assess against the owner of the dam the  
7 cost to the Department of the inspection.

8 (j) A dam owner shall file all dam registrations required by this section or  
9 rules adopted under this chapter in the records of the town or towns where the  
10 dam is located. A town clerk shall index and record dam registrations in the  
11 land records pursuant to 24 V.S.A. §§ 1154 and 1161.

12 § 1104a. ABANDONED DAMS

13 (a) Designation of dam as abandoned. The Department may designate a  
14 dam as abandoned if the Department:

15 (1) has identified an owner of the dam, but the owner fails to comply  
16 with the requirements of section 1104 of this title or the owner fails to comply  
17 with an action or order required under this chapter; or

18 (2) cannot identify an owner of the dam; and

19 (3) publishes notice of a pending determination of abandonment of the  
20 dam in a newspaper of general circulation in the county in which the dam is  
21 located; and after 45 days from the date of publication of pending

1 determination of abandonment, no person has asserted ownership or control of  
2 the dam.

3 (b) Inspection of abandoned dam. Upon designation of a dam as  
4 abandoned, the Department shall conduct an inspection of the dam according  
5 to its inspection authority under section 1105 of this title.

6 (c) Lien on property on which dam is situated. When the Department takes  
7 action under this section to inspect an abandoned dam or when the Department  
8 takes any action under this chapter to alleviate or address a risk to life or  
9 property from an abandoned dam, the Department may file a lien in favor of  
10 the State on the property on which the dam is located and on the buildings and  
11 structures located on that property in order to secure repayment to the State of  
12 the costs of the inspection or other action. The lien shall arise at the time  
13 demand is made by the Secretary and shall continue until the liability for such  
14 sum with interest and costs is satisfied or becomes unenforceable. A lien  
15 under this section shall be subordinate to a primary mortgage on the property.  
16 The Department shall record notice of a lien under this section in the land  
17 records of the town in which the property is located.

18 (d) Assumption of ownership of an abandoned dam. A person may assume  
19 ownership of a dam designated by the Department as abandoned by:

20 (1) notifying the Department, where applicable, of the intent to assume  
21 ownership;



1     § 1107. MARKETABILITY OF TITLE

2             The failure of a dam owner to record a dam registration or a dam inspection  
3     report when required under this chapter or rules adopted under this chapter  
4     shall not create an encumbrance on record title or an effect on marketability of  
5     title for the real estate property or properties on which dam is located, except  
6     when the Department files a lien on property under subsection 1104a(c) of  
7     this title.

8     § 1108. RULEMAKING

9             (a) Implementation of chapter. The Secretary may adopt rules to  
10     implement the requirements of this chapter.

11            (b) Design and operation standards. On or before July 1, 2017, the  
12     Secretary shall adopt by rule standards for the design, construction,  
13     reconstruction, enlargement, alteration, operation, monitoring, maintenance,  
14     modification, repair, breach, or removal of a dam in the State. The rules shall  
15     include:

16            (1) standards for the siting and design of dams that consider both  
17     existing and projected conditions that may affect the safety of a project during  
18     construction or during the operational life of the dam;

19            (2) standards for dam operation, including operation plans to be  
20     prepared and implemented by dam owners;

21            (3) requirements for monitoring, inspecting, and reporting conditions  
22     affecting the safety and operation of a dam; and

1           (4) requirements for preparing and implementing emergency action  
2           plans by dam owners when determined necessary by the Secretary.

3           § 1109. NATURAL RESOURCES ATLAS; DAM STATUS

4           (a) Submission to Department. Annually on or before January 1, the Public  
5           Service Board and the Secretary of Agriculture, Food and Markets shall submit  
6           to the Department the presence, location, and hazard classification of any dam  
7           within its jurisdiction or learned of within the previous calendar year.

8           (b) Update of Natural Resources Atlas. Beginning on January 1, 2016, the  
9           Secretary of Natural Resources shall update the Natural Resources Atlas on the  
10          Agency of Natural Resources' website to include the status of dams identified  
11          on the Atlas. The Atlas shall include all information submitted under  
12          subsection (a) of this section and the presence, location, and hazard  
13          classification of any dam within the jurisdiction of the Department. The  
14          Department shall include on the Atlas the owner of the dam, if known.

15          (c) Additional information. The Department may enter a memorandum of  
16          understanding with the Public Service Board and the Secretary of Agriculture,  
17          Food and Markets regarding additional information regarding dams to be  
18          submitted to the Department under this section.



1 required to support the operating permit program authorized under 10 V.S.A.  
2 chapter 23. Any fee required to be collected under subsection 2822(k), (l), or  
3 (m) of this title for air pollution control permits or registrations or motor  
4 vehicle registrations shall be utilized solely to cover all reasonable (direct or  
5 indirect) costs required to support the programs authorized under 10 V.S.A.  
6 chapter 23. Fees collected pursuant to subsections 2822(k), (l), and (m) of this  
7 title shall be used by the Secretary to fund activities related to the Secretary's  
8 hazardous or toxic contaminant monitoring programs and motor  
9 vehicle-related programs.

10 (c) The Secretary shall use any fee required to be collected under  
11 subdivision 2822(j)(12) of this title for dam registrations solely to cover all  
12 direct or indirect costs required to support the programs authorized under  
13 10 V.S.A. chapter 43. When the fees collected under subdivision 2822(j)(12)  
14 of this title exceed the annual funding needs of 10 V.S.A. chapter 43, the  
15 Secretary shall deposit the excess funds into the Unsafe Dam Revolving Loan  
16 Fund under 10 V.S.A. § 1106.

17 Sec. 3. 3 V.S.A. § 2822(j)(12) is amended to read:

18 (12)(A) For dam permits issued under 10 V.S.A. chapter 43: 0.525  
19 percent of construction costs, minimum fee of \$200.00.

20 (B) For the dam registration under 10 V.S.A. § 1104(b)(1), a person  
21 registering a dam shall pay a registration fee of \$200.00.

1           (C) The annual dam safety program operation fee submitted under  
2           10 V.S.A. § 1104(b)(2) shall be based on the hazard classification of the dam  
3           as follows:

4                   (i) Undetermined hazard dam                   \$200.00;

5                   (ii) Low hazard dam                                   \$200.00;

6                   (iii) Significant hazard dam                               \$350.00;

7                   (iv) High hazard dam                                       \$1,000.00.

8                                   \* \* \* Dam Registration Report \* \* \*

9           Sec. 4. DAM REGISTRATION PROGRAM REPORT

10           On or before January 1, 2017, the Department of Environmental  
11           Conservation shall submit a report to the House Committee on Fish, Wildlife  
12           and Water Resources, the House Committee on Ways and Means, the Senate  
13           Committee on Natural Resources and Energy, and the Senate Committee on  
14           Finance. The report shall contain:

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

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

19                   (3) a summary of the dams registered under the program, organized by  
20           amount of water impounded and hazard class; and

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

