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H.825

Introduced by Representatives Galfetti of Barre Town, Anthony of Barre City,  
Chase of Chester, Chesnut-Tangerman of Middletown Springs,  
Cina of Burlington, Cole of Hartford, Gregoire of Fairfield,  
Hango of Berkshire, Headrick of Burlington, Labor of Morgan,  
Logan of Burlington, Maguire of Rutland City, McCann of  
Montpelier, Morris of Springfield, Morrissey of Bennington,  
Mulvaney-Stanak of Burlington, Page of Newport City,  
Peterson of Clarendon, Roberts of Halifax, Templeman of  
Brownington, and Williams of Barre City

Referred to Committee on

Date:

Subject: Conservation and development; regulation of stream flow; stream  
alteration; municipal maintenance

Statement of purpose of bill as introduced: This bill proposes to authorize a  
municipality to remove instream material from a watercourse without a State  
stream alteration permit when the removal is exempt from federal permitting,  
is self-verified under federal permitting, or occurs in a water or wetland that is  
not a navigable water of the United States.



1 (C) treatment ponds, lagoons, or wetlands created solely to meet the  
2 requirements of a permit issued for a discharge; and

3 (D) constructed off-stream farm ponds or other off-stream  
4 impoundments that are used for irrigation for farming or watering of livestock.

5 \* \* \*

6 (22) “Watercourse” means any perennial stream. “Watercourse” does  
7 not include ditches or other constructed channels primarily associated with  
8 land drainage or water conveyance through or around private or public  
9 infrastructure.

10 \* \* \*

11 (25) “Maintenance” means the repair, reconstruction, or rehabilitation of  
12 a structure, such as a dike, dam, riprap, breakwater, or bridge, within a  
13 watercourse, including the removal of instream material.

14 (26) “Municipality” means a city, town, or village.

15 (27) “U.S. Corps of Engineers Vermont General Permit” means the U.S.  
16 Department of the Army General Permit No. NAE-2022-00024, effective on  
17 December 6, 2022.

18 Sec. 2. 10 V.S.A. § 1021 is amended to read:

19 § 1021. ALTERATION PROHIBITED; EXCEPTIONS

20 (a) A person shall not change, alter, or modify the course, current, or cross  
21 section of any watercourse or of designated outstanding resource waters,

1 within or along the boundaries of this State either by movement, fill, or  
2 excavation of ~~ten~~ 10 cubic yards or more of instream material in any year,  
3 unless authorized by the Secretary. A person shall not establish or construct a  
4 berm in a flood hazard area or river corridor, as those terms are defined in  
5 subdivisions 752(3) and (11) of this title, unless permitted by the Secretary or  
6 constructed as an emergency protective measure under subsection (b) of this  
7 section.

8 (b) The requirements of subsection (a) of this section shall not apply to  
9 emergency protective measures necessary to preserve life or to prevent severe  
10 imminent damage to public or private property, or both. The protective  
11 measures shall:

12 (1) be limited to the minimum amount necessary to remove imminent  
13 threats to life or property;

14 (2) have prior approval from a member of the municipal legislative  
15 body;

16 (3) be reported to the Secretary by the legislative body within 24 hours  
17 after the onset of the emergency; and

18 (4) be implemented in a manner consistent with the general permit  
19 adopted under section 1027 of this title regarding stream alteration during  
20 emergencies.

21 \* \* \*

1        (i) The requirements of subsection (a) of this section and section 1023 of  
2        this title shall not apply to the removal of instream material by a municipality  
3        conducting maintenance of a watercourse or a structure within a watercourse  
4        when the removal of the instream material:

5                (1) is maintenance exempt under 33 C.F.R. § 323.4(a)(2) from the U. S.  
6        Army Corps of Engineers permitting required by 33 U.S.C. § 1344;

7                (2) is an activity that is self-verification eligible under the U.S. Corps of  
8        Engineers Vermont General Permit, including maintenance, dredging, and  
9        shoreline stabilization activities; or

10               (3) occurs in a water or wetland that is not a navigable water of the  
11        United States.

12        Sec. 3. STEVENS BRANCH; MAINTENANCE AUTHORIZED

13               The City of Barre is authorized to remove instream material from the  
14        Stevens Branch of the Winooski River under 10 V.S.A. § 1021(i) without a  
15        stream alteration permit for the purpose of performing maintenance and repair  
16        of riprap, breakwaters, and other structures in the watercourse that were  
17        constructed or installed to create or maintain the Stevens Branch.

18        Sec. 4. EFFECTIVE DATE

19               This act shall take effect on passage.