

Vermont's Climate Superfund Law (Act 122)

Elena M. Mihaly, Esq.

VP, CLF Vermont

March 19, 2025



Conservation
Law Foundation

Conservation Law Foundation (CLF)



Who We Are

For over 50 years, CLF has taken on powerful opponents who would pollute our air and water and squander our resources. **Our deep local knowledge, legal acumen, and policy expertise** make us a prime mover in building our clean energy future, countering climate change, and safeguarding our communities.

— WHAT WE DO —

Climate Change

Healthy Ocean

Clean Air + Water

People + Justice

Healthy
Communities

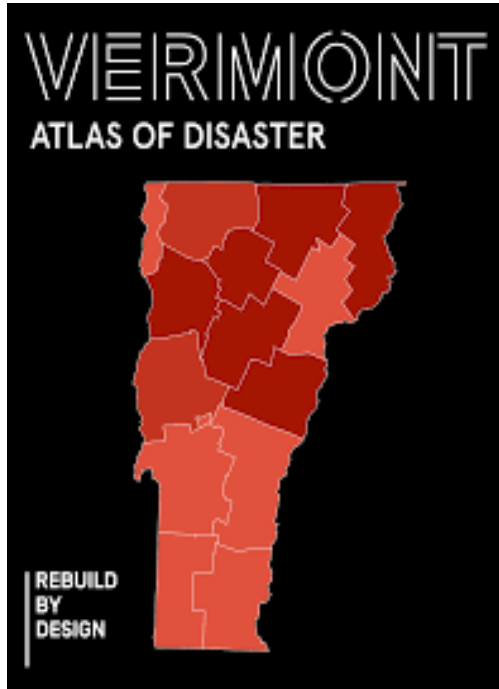


Conservation
Law Foundation
clf.org

Context: Vermont's Capital City, July 2023



Context: High spending on climate disasters



2011-2021

17 Climate Disaster
Declarations

7th Highest Number of
Disasters in the Country

5th Highest Per Capita
Spending on Climate
Disasters

At least 5 More Climate
Disasters Since 2021

Context: A motivated Legislature



Elements of VT's Climate Superfund Law Cont'd

- **The Fund.** Establish Climate Superfund Cost Recovery Program to secure compensatory payments from RPs based on SL stnd to provide source of revenue for CC adaptation projects within the State
- **Responsible Parties.** FF refiners and extractors whose products and activities resulted in >1B metric tons of CO2 equivalent climate change emissions during covered period (1995-2024). Must have sufficient jurisdictional nexus to VT.

Elements of VT's Climate Superfund Law Cont'd

- **Cost Recovery Demands.** The State will seek proportional cost recovery from Responsible Parties based on the total cost assessment completed by the Treasurer.
- **Appeal Rights.** RPs aggrieved by notice of cost recovery demand shall exhaust admin remedies by filing request for reconsideration with Sec of ANR w/in 30 days of notice. If still aggrieved after final notice, RP may challenge notice in State Superior Court.

Treasurer's Cost Report: The purpose

- Assess historical and projected costs to Vermont and residents b/c of changes to climate attributable to covered GHG emissions.
- Example: financial fallout from increasingly frequent flood devastation, such as July 2023 flood.
- Enables state to understand economic damages VT sustained and will likely sustain as climate alteration continues; provides basis to recover portion of those economic damages from RPs bearing significant responsibility for pollution that causes CC.

Near-term Implementation Timeline

- ❑ 1/15/25: Report-back to Legislature on feasibility + progress
- ❑ 1/1/26: ANR adopts “Resilience Implementation Strategy” via rule
- ❑ 1/15/26: Treasurer submits cost assessment to Legislature

Longer-term Implementation

- ❑ 1/1/27: ANR adopts rules including methodology for ID'ing RPs (including personal jurisdiction) and determining fair share of covered GHG emissions
- ❑ 6 months after rulemaking: ANR issues cost recovery demands. Payments due 6 months after demand issued, or in 9 installments.
- ❑ ANR distributes payments consistent w/ Resilience Impl. Plan
- ❑ Fund is audited starting in 2031 + every 5 years

Treasurer's Cost Report: Progress so far

- Nationwide Request for Information issued in Fall 2024
- Results summarized in [“Act 122 Climate Superfund Cost Recovery Program Report to General Assembly January 15, 2025.”](#)
- Report affirms that tasks in the Law are feasible with support from experts in climate attribution science and other relevant fields
- Next step: Issuance of RFP