Article 6. Comprehensive Flood Control Program.

**§ 10.1-658. State interest in flood control.**

A. The General Assembly declares that storm events and rising tidal waters cause recurrent flooding of Virginia's land resources and result in the loss of life, damage to property, unsafe and unsanitary conditions and the disruption of commerce and government services, placing at risk the health, safety and welfare of those citizens living in flood-prone areas of the Commonwealth. Flood waters disregard jurisdictional boundaries, and the public interest requires the management of flood-prone areas in a manner which prevents injuries to persons, damage to property and pollution of state waters.

B. The General Assembly, therefore, supports and encourages those measures which prevent, mitigate and alleviate the effects of stormwater surges and flooding, and declares that the expenditure of public funds and any obligations incurred in the development of flood control and other civil works projects, the benefits of which may accrue to any county, municipality or region in the Commonwealth, are necessary expenses of local and state government.

1989, cc. 468, 497; 2020, c. [493](http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0493).

**§ 10.1-658.1 Definitions.**

As used in this article, unless the context requires a different meaning:

“Board” means the Commonwealth Flood Board established pursuant to § 10.1-658.3.

“Department” means the Department of Flood Control established pursuant to § 10.1-658.2.

“Director” means the Director of the Department of Flood Control established pursuant to § 10.1-658.2.

**§ 10.1-658.2 Department of Flood Control; statement of policy.**

1. There is hereby created a Department of Flood Control under the authority of the Secretary of Natural and Historic Resources to provide technical expertise in all aspects related to flood control, management, mitigation, abatement, and recovery.
2. The department shall include a Director, to be appointed by the Governor to serve at his pleasure for a term coincident with his own.
3. The Director shall maintain a staff with combined expertise in floodplain management, stormwater modeling, civil engineering, coastal engineering, geology, natural resources management, land use planning, economics, benefit-cost modeling, environmental policy development, environmental justice, and financial management, including grant management, bond ratings, and investment strategies.
4. The purposes of the Department are to:
5. Direct a comprehensive flood control program to include data collection, planning, research, analysis, modeling, and project management related to flood control and flood control projects in Virginia;
6. Coordinate with the United States Army Corps of Engineers Greater Lakes and Ohio River, North Atlantic, and South Atlantic Divisions and with the United States Army Corps of Engineers Baltimore, Huntington, Nashville, Norfolk, and Wilmington Districts on matters related to flood risk management and reduction.
7. Serve as a nonfederal sponsor for civil works projects managed by the United States Army Corps of Engineers;
8. Provide technical assistance to localities in the development of local and regional flood control plans;
9. Provide technical assistance in the execution of the duties of the Board;
10. Make available flood and flood damage reduction data to localities for planning purposes, in order to assure necessary local participation in the planning process and in the selection of desirable alternatives and strategies pursuant to § 10.1-660 and § 10.1-661. This shall include the development of a database to include (i) all flood protection projects implemented by federal agencies, state agencies, and local governments and (ii) the estimated value of property damaged by major floods.
11. Perform all acts necessary or convenient to carry out the purposes of this article.
12. The Director shall serve as the Special Assistant to the Governor for Coastal Adaptation and Protection for the purposes of duties required pursuant to § 2.2-435.11.
13. Funding for the Department shall be allocated as provided pursuant to § 10.1-1330.

**§ 10.1-658.3 Commonwealth Flood Board; purpose.**

1. The Virginia Commonwealth Flood Board is established as a policy board in the executive branch in accordance with § 2.2-2100.

**§ 10.1-658.4 Membership; terms; quorum; meetings.**

1. The Board shall have a total membership of fifteen (15) members that shall consist of eleven (11) non-legislative citizen members and four ex officio members. One (1) non-legislative citizen member shall be appointed by the Speaker of the House of Delegates; one (1) non-legislative citizen member shall be appointed by the majority leader of the Senate; and nine (9) non-legislative citizen members shall be appointed by the Governor. The Secretaries of Natural and Historic Resources, Transportation, Public Safety, and Commerce and Trade, or their designees, shall serve ex officio without voting privileges. Non-legislative citizen members of the Board shall be citizens of the Commonwealth.
2. Ex officio members of the Board shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired term of the appointment. Vacancies shall be filled in the same manner as the original appointment. All members may be reappointed. After the initial appointment, non-legislative citizen members shall be appointed for a term of five years.
3. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

**§ 10.1-658.5 Compensation; expenses.**

1. Members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2813 and § 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

**§ 10.1-658.6 Powers and duties of the Board.**

1. The Board shall have the power and duty to:
2. Provide accountability for and oversee the management of and disbursement of funds from the Community Flood Preparedness Fund in accordance with § 10.1-603.24 and any other state and federal funds established for flood risk reduction, flood risk management, and adaptation to sea level rise.
3. Oversee the development, implementation, and updating of the Commonwealth Flood Plan in accordance with § 10.1-660.
4. Serve as the coordinator of all flood protection programs and activities in the Commonwealth, including the coordination of federal flood protection programs administered by the United States Army Corps of Engineers, the United States Department of Agriculture, the Federal Emergency Management Agency, the United States Geological Survey, the Tennessee Valley Authority, other federal agencies, and local governments.
5. Annually evaluate the alignment of the Commonwealth’s flood mitigation objectives with the following state programs, or their successors in interest, and any associated grants and loans: (i) the Six-Year Improvement Program of the Virginia Department of Transportation; (ii) the Brownfields program of the Virginia Economic Development Partnership Authority; (iii) the long-range transportation plan of the Virginia Department of Transportation; (iv) hazard mitigation plans and grant programs of the Virginia Department of Emergency Management; (v) the Dam Safety, Flood Prevention and Protection Assistance Fund of the Virginia Department of Conservation and Recreation; (vi) the Water Quality Improvement Fund of the Virginia Department of Environmental Quality; (vii) the Clean Water Revolving Fund of the Virginia Department of Health; (viii) the Community Development Block Grant program of the Virginia Department of Housing and Community Development; and (ix) the Drinking Water Revolving Fund of the Virginia Department of Health; and
6. Submit an annual report on actions taken by the Board, Commonwealth, and local governments to mitigate the impacts of recurrent flooding and sea level rise on the Commonwealth to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman of the Board shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Services for the processing of legislative documents and reports and shall be posted on the General Assembly’s website.

**§ 10.1-658.7 Staffing.**

1. The Department shall provide staff support to the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

**§ 10.1-658.8 Commonwealth Flooding Scientific and Technical Advisory Committee.**

1. The Commonwealth Flooding Scientific and Technical Advisory Committee (the Committee) is hereby established as an advisory committee of the Board to assist the Commonwealth in developing and implementing a Commonwealth Flood Plan. The Committee shall be appointed by the Board in consultation with the Director and shall be composed of faculty members of Virginia colleges and universities with technical expertise in climatology, geology, hydrology, engineering, planning, marine science, and economics. The Committee shall meet at least twice each calendar year.
2. Members of the Committee shall receive no compensation for their service and shall not be entitled to reimbursement for expenses incurred in the performance of their duties.

**§ 10.1-658.9 Commonwealth Flooding Stakeholder Advisory Committee.**

1. The Commonwealth Flooding Stakeholder Advisory Committee (the Committee) is hereby established as an advisory committee of the Board to assist the Commonwealth in developing and implementing a Commonwealth Flood. The Committee shall be appointed by the Board in consultation with the Director and shall be composed of representatives from flood-prone communities, planning district commissions, business, real estate, and non-governmental organizations. The Committee shall meet at least twice each calendar year.
2. Members of the Committee shall receive no compensation for their service and shall not be entitled to reimbursement for expenses incurred in the performance of their duties.

**§ 10.1-659. (Effective October 1, 2021) Flood protection programs; coordination.**

The Board and Department shall coordinate any action taken pursuant to the provisions of this chapter with the Virginia Coastal Resilience Master Plan and federal, state, and local flood prevention and water quality programs to minimize loss of life, property damage, and negative impacts on the environment. This program coordination shall include but not be limited to the following: flood prevention, flood plain management, small watershed protection, dam safety, shoreline erosion and public beach preservation, and soil conservation programs of the Department of Conservation and Recreation; the construction activities of the Department of Transportation, including projects that result in hydrologic modification of rivers, streams, and flood plains; the nontidal wetlands, water quality, Chesapeake Bay Preservation Area criteria, stormwater management, erosion and sediment control, and other water management programs of the State Water Control Board; the Virginia Coastal Zone Management Program at the Department of Environmental Quality; forested watershed management programs of the Department of Forestry; the agricultural stewardship, farmland preservation, and disaster assistance programs of the Department of Agriculture and Consumer Services; the statewide building code and other land use control programs of the Department of Housing and Community Development; the habitat management programs of the Virginia Marine Resources Commission; the hazard mitigation planning and disaster response programs of the Department of Emergency Management; the fish habitat protection programs of the Department of Wildlife Resources; the mineral extraction regulatory program of the Department of Energy; the flood plain restrictions of the Virginia Waste Management Board; flooding-related research programs of the state universities; local government assistance programs of the Virginia Soil and Water Conservation Board; the Virginia Antiquities Act program of the Department of Historic Resources; and any other state agency programs deemed necessary by the Director of the Department of Flood Control, the Chief Resilience Officer of the Commonwealth, and the Special Assistant to the Governor for Coastal Adaptation and Protection. The Department of Flood Control shall also coordinate with soil and water conservation districts, Virginia Cooperative Extension agents, and planning district commissions, and shall coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply with the planning, subdivision of land, and zoning provisions of Chapter 22 (§ [15.2-2200](https://law.lis.virginia.gov/vacode/15.2-2200/) et seq.) of Title 15.2. The Director of the Department of Flood Control and either the Special Assistant to the Governor for Coastal Adaptation and Protection or the Chief Resilience Officer shall jointly hold meetings of representatives of these programs, entities, and localities in order to determine, coordinate, and prioritize the Commonwealth's efforts and expenditures to increase flooding resilience. The Department of Flood Control shall cooperate with other public and private agencies having flood plain management programs and shall coordinate its responsibilities under this article and any other law. These activities shall constitute the Commonwealth's flood prevention and protection program.

1989, cc. 468, 497; 2012, cc. [785](http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+CHAP0785), [819](http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+CHAP0819); 2013, cc. [756](http://lis.virginia.gov/cgi-bin/legp604.exe?131+ful+CHAP0756), [793](http://lis.virginia.gov/cgi-bin/legp604.exe?131+ful+CHAP0793); 2020, cc. [493](http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0493), [958](http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0958); 2021, Sp. Sess. I, c. [532](http://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0532).

**§ 10.1-660. Commonwealth Flood Plan.**

1. Not later than July 1, 2025, and before the end of each successive five-year period after that date, the Commonwealth Flood Board shall prepare and adopt a comprehensive Commonwealth Flood Plan that incorporates regional flood plans approved under § 10.1-661. The Commonwealth Flood Plan shall:
2. Provide for orderly preparation for and response to flood conditions to protect against the loss of life and property;
3. Be a guide to state, regional, and local flood risk management and control policy;
4. Contribute to water resources development and natural resource preservation where possible; and
5. Build on the principles and efforts of the Virginia Coastal Resilience Master Planning Framework and Virginia Coastal Resilience Master Plan, where appropriate.
6. The Commonwealth Flood Plan must include:
7. An inventory of flood-prone areas;
8. An inventory of flood protection studies;
9. A record of flood damages;
10. An evaluation of the condition and adequacy of flood risk management infrastructure on a regional basis;
11. A statewide, ranked list of ongoing and proposed flood risk management and mitigation projects and strategies to protect against the loss of life and property from flooding and a discussion of how those projects and strategies might further water resources development and natural resource preservation, where applicable;
12. An analysis of completed, ongoing, and proposed flood risk management and mitigation projects included in previous state, regional, and local flood plans, including which projects received funding;
13. An analysis of development in the 100-year floodplain areas as defined by the Federal Emergency Management Agency;
14. An analysis of development and projected development in areas affected by sea level rise;
15. Legislative recommendations the Board considers necessary to facilitate flood risk management and mitigation planning and project construction; and
16. A record of changes and updates made to each section since the previously adopted Plan and plans for future changes in successive plans.
17. The Commonwealth Flood Plan shall be maintained in an online format so as to be easily accessed by other governmental entities and by the public. The online plan shall contain links to the most current information available from other federal, state, and local sources.
18. The Board, in coordination with the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Wildlife Resources, the Department of Emergency Management, the Department of Transportation, the Commonwealth Transportation Board, and the Department of Housing and Community Development, shall adopt guidance principles for the Commonwealth Flood Plan that reflect the public interest of the entire Commonwealth. The Board shall review and revised the guidance principles, with input from the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Wildlife Resources, the Department of Emergency Management, the Department of Transportation, the Commonwealth Transportation Board, and the Department of Housing and Community Development as necessary and at least every fifth year to coincide with the five-year cycle for adoption of a new Commonwealth Flood Plan.
19. On adoption of a Commonwealth Flood Plan, the Board shall deliver the plan to the:
20. Governor;
21. Lieutenant Governor;
22. Speaker of the House of Delegates; and
23. Appropriate legislative committees and legislative leadership.

**§ 10.1-661. Regional Flood Planning.**

1. The Commonwealth Flood Board shall:
2. Designate flood planning regions corresponding to river basins and floodplains;
3. Provide technical and financial assistance to the flood planning groups;
4. Adopt guidance principles for the development of regional flood plans, including procedures for amending adopted plans; and
5. Designate a local government or regional agency within each flood planning region to support the regional flood planning group and serve as a fiscal agent.
6. In designating flood planning regions, the Board may divide or combine river basins or floodplains to promote efficient planning in a flood planning region.
7. The board shall designate representatives from each flood planning region to serve as the initial regional flood planning group. The initial regional flood planning group may then designate additional representatives to serve on the regional flood planning group. The initial regional flood planning group shall designate additional representatives if necessary to ensure adequate representation from the interests in its region, including the public, local governments, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, and water utilities. The regional flood planning group shall maintain adequate representation from those interests. In addition, the board, the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Wildlife Resources, the Department of Emergency Management, the Department of Housing and Community Development, and the Department of Transportation each shall appoint a representative to serve as an ex officio member of each regional flood planning group.
8. Each regional flood planning group shall hold public meetings as provided by Board rule to gather from interested persons, including members of the public, suggestions and recommendations as to issues, provisions, projects, and strategies that should be considered for inclusion in a regional flood plan.
9. Each regional flood planning group shall consider the information collected under Subsection (d) in creating a regional flood plan. A regional flood plan must:
10. Use information based on scientific data and updated mapping; and
11. Include
	1. A general description of the condition and functionality of flood risk management and mitigation infrastructure in the flood planning region;
	2. Flood risk management and mitigation projects under construction or in the planning stage;
	3. Information on land use changes and population growth in the flood planning region;
	4. Identification of the areas in the flood planning region that are prone to flood and flood risk management and mitigation solutions for those areas; and
	5. An indication of whether a particular flood risk management and mitigation solution:
		1. Meets an emergency need;
		2. Uses federal money as a funding component; and
		3. May protect or otherwise affect a federal property, including Department of Defense installations.
12. After a regional flood planning group prepares a regional flood plan, the group shall hold at least one public meeting in a central location in the flood planning region to accept comments on the regional flood plan. The regional flood planning group shall:
13. Cooperate with the Board to determine what method of providing notice for the public meeting is most accessible to persons in the flood planning region; and
14. Publish, post, or otherwise disseminate notice of the public meeting according to the method described by Subdivision (1).
15. The notice published, posted, or otherwise disseminated under Subsection (F) must contain:
16. The date, time, and location of the public meeting or hearing;
17. A summary of the regional flood plan;
18. The name, telephone number, and address of a person to whom questions or requests for additional information may be submitted; and
19. Information on how the public may submit comments.
20. After consideration of the comments received at the public meeting, the regional flood planning group shall adopt the regional flood plan and submit the adopted regional flood plan to the Board. The Board shall make a determination whether the regional flood plan
21. Satisfies the requirements of regional flood plans adopted in the guidance principles described by Subsection (A)
22. Adequately provides for the preservation of life and property, the development of water resources, and the preservation of natural resources, where applicable; and
23. Affects a neighboring area.
24. If the Board makes a determination that an element of a regional flood plan negatively affects a neighboring area, the board must coordinate with the affected area to adjust the plan to ensure that no neighboring area is negatively affected by the plan.
25. The Board shall approve a regional flood plan when it:
26. Satisfies the requirements of Subsections (H)(1) and (H)(2); and
27. Does not negatively affect a neighboring area.
28. A flood planning group may amend a regional flood plan after the plan has been approved by the board according to rules adopted by the board.
29. Each regional flood planning group and committee or subcommittee of a regional flood planning group is considered a public body and subject to the Virginia Freedom of Information Act.