

1 H.410

2 Introduced by Representative Atkins of Winooski

3 Referred to Committee on

4 Date:

5 Subject: Conservation; water resources; wetlands

6 Statement of purpose: This bill proposes to amend the regulation of wetlands
7 in the state by requiring a permit to conduct activities in naturally-occurring
8 wetlands, but allowing activities in manmade wetlands unless otherwise
9 prohibited by rule. The bill would also authorize the water resources panel of
10 the natural resources board to adopt rules regarding both naturally-occurring
11 wetlands and manmade wetlands.

12 An act relating to wetlands management

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

14 Sec. 1. 10 V.S.A. § 902 is amended to read:

15 § 902. DEFINITIONS

16 Wherever used or referred to in this chapter, unless a different meaning
17 clearly appears from the context:

18 (1) "Board" means the water resources panel of the natural resources
19 board;

1 (2) "Department" means department of environmental conservation;

2 (3) "Waters" means any and all rivers, streams, brooks, creeks, lakes,
3 ponds or stored water, and groundwaters, excluding municipal and farm water
4 supplies;

5 (4) "Water resources" means the waters and the values inherent or
6 potential in waters and their uses.

7 (5) "~~Wetlands~~ Naturally-occurring wetlands" means those areas of the
8 state that are naturally inundated by surface or groundwater with a frequency
9 sufficient to support significant vegetation or aquatic life that depend on
10 saturated or seasonally saturated soil conditions for growth and reproduction.
11 Such areas include but are not limited to naturally-occurring marshes, swamps,
12 sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds,
13 but excluding manmade wetlands and such areas as grow food or crops in
14 connection with farming activities.

15 (6) "Manmade wetlands" means wetlands which were created solely as
16 a result of human activity, such as scraping, ditch digging, or contouring of
17 uplands. Such areas include swales and drainage ditches.

18 Sec. 2. 10 V.S.A. § 905b is amended to read:

19 § 905b. DUTIES; POWERS

20 The department shall protect and manage the water resources of the state in
21 accordance with the provisions of this subchapter and shall:

1 * * *

2 (18) study and investigate the wetlands of the state and cooperate with
3 other agencies and the board in collecting and compiling data relating to
4 naturally-occurring wetlands and manmade wetlands, propose to the board
5 specific naturally-occurring wetlands to be designated as significant wetlands,
6 and implement ~~through existing programs~~ the rules adopted by the ~~board~~ panel
7 governing ~~significant wetlands~~ naturally-occurring wetlands and manmade
8 wetlands, including the issuance or denial of ~~conditional use determinations~~
9 wetlands permits pursuant to section ~~1272~~ 915 of this title;

10 * * *

11 Sec. 3. 10 V.S.A. chapter 37, subchapter 4 is added to read:

12 Subchapter 4. Wetlands

13 § 915. NATURALLY-OCCURRING WETLANDS

14 (a) Except for those allowed uses adopted by the panel by rule, no person
15 shall conduct or allow to be conducted an activity in a naturally-occurring
16 wetland without first obtaining a permit from the secretary.

17 (b) The secretary may issue a permit to conduct an activity in a
18 naturally-occurring wetland according to rules adopted by the panel to
19 accomplish the purposes of this subchapter. The rules adopted by the panel
20 under this subsection may authorize the secretary to issue individual permits or
21 general permits under this section for discrete categories of activities

1 conducted in a naturally-occurring wetland. A general permit issued under this
2 section shall have a term of no more than 10 years.

3 (c) Application for an individual permit to conduct activities in a
4 naturally-occurring wetland shall be made on a form prescribed by the
5 secretary. The secretary may issue, condition, modify, revoke, or deny a
6 permit to conduct activities in a naturally-occurring wetland in order to carry
7 out the purposes of this subchapter. An applicant for a permit shall pay a fee in
8 accordance with 3 V.S.A. § 2822. The secretary shall provide notice of each
9 application for a permit to conduct activities in a naturally-occurring wetland
10 pursuant to rules adopted by the panel.

11 (d) It shall be a violation of this section if any unpermitted activity that is
12 not an allowed use occurs within a naturally-occurring wetland.

13 § 916. MANMADE WETLANDS

14 A permit is not required to conduct an activity in a manmade wetland,
15 unless the panel has prohibited such activity by rule. If there is not sufficient
16 evidence to prove that a wetland is manmade, the wetland shall be considered
17 naturally-occurring and subject to the requirements of section 915 of this title.
18 Sec. 4. 10 V.S.A. chapter 37 §§ 921–924 are recodified within subchapter 5,
19 which is added to read:

1 ~~markets and shall not adopt rules that restrain silvicultural activities without~~
2 ~~the consent of the commissioner of the department of forests, parks and~~
3 ~~recreation.~~

4 * * *

5 Sec. 6. 10 V.S.A. § 8003(a) is amended to read:

6 (a) The secretary may take action under this chapter to enforce the
7 following statutes:

8 * * *

9 (3) 10 V.S.A. chapters 37, 47, and 56, relating to wetlands, water
10 pollution control, water quality standards, water resources management, and
11 public water supply;

12 * * *

13 Sec. 7. 10 V.S.A. § 8503(a) is amended to read:

14 (a) This chapter shall govern all appeals of an act or decision of the
15 secretary, excluding enforcement actions under chapters 201 and 211 of this
16 title and rulemaking, under the following authorities and under the rules
17 adopted under those authorities:

18 (1) The following provisions of this title:

19 * * *

20 (O) chapter 37 (wetlands).

21 * * *