

1 Sec. 1. 29 V.S.A. § 403 is amended to read:

2 § 403. ENCROACHMENT PROHIBITED

3 (a)(1) Except as provided in subsection (b) of this section, no person shall
4 encroach on any of those waters and lands of lakes and ponds under the
5 jurisdiction of the Department without first obtaining a permit under this
6 chapter.

7 (2) Except as provided in subsection (b) of this section, no person shall
8 encroach on the following waters with a dock or pier without first obtaining a
9 permit under this chapter:

10 (A) boatable tributaries of Lake Champlain and Lake
11 Memphremagog upstream to the first barrier to navigation; and

12 (B) Connecticut River impoundments and boatable tributaries of such
13 impoundments upstream to the first barrier to navigation.

14 (3) No permit shall be granted if the encroachment adversely affects the
15 public good.

16 (b) A permit shall not be required for the following uses, provided that
17 navigation or boating is not unreasonably impeded:

18 (1) wooden or metal docks for noncommercial use mounted on piles or
19 floats, provided that:

20 (A) the combined horizontal distance of the proposed encroachment
21 and any existing encroachments located within 100 feet thereof that are owned

1 or controlled by the applicant do not exceed 50 feet and their aggregate surface
2 areas do not exceed 500 square feet; and

3 (B) concrete, masonry, earth or rock fill, sheet piling, bulkheading,
4 cribwork, or similar construction does not form a part of the encroachment;

5 (2) a water intake pipe not exceeding two inches inside diameter;

6 (3) temporary extensions of existing structures added for a period not to
7 exceed six months, if required by low water;

8 (4) ordinary repairs and maintenance to existing commercial and
9 noncommercial structures;

10 (5) duck blinds, floats, rafts, and buoys.

11 (c) Existing encroachments shall not be enlarged, extended, or added to
12 without first obtaining a permit under this chapter, except as provided in
13 subsection (b) of this section.

14 (d) This chapter shall not apply to encroachments subject to the provisions
15 of 10 V.S.A. chapter 43, concerning dams, or regulations adopted under the
16 provisions of 10 V.S.A. § 1424 concerning public waters.

17 (e) This section shall not apply to the installation on lake bottoms of small
18 filtering devices not exceeding nine square feet of disturbed area on the end of
19 water intake pipes less than two inches in diameter for the purpose of zebra
20 mussel control.

1 (f) The Department shall not issue a permit under this chapter for the
2 intentional sinking of a vessel in any of the waters and lands of lakes and
3 ponds under the jurisdiction of the Department.

4 Sec. 2. 29 V.S.A. § 410 is amended to read:

5 § 410. RULEMAKING; ENCROACHMENTS ON PUBLIC WATERS

6 The Department ~~may~~ shall adopt rules to implement the requirements of this
7 chapter. The rules shall address criteria for:

8 (1) what adversely affects the public good under section 405 of this title,
9 including what constitutes an approved public use of the waters and lands of
10 lakes and ponds under the jurisdiction of the Department, provided that the
11 criteria shall be designed to:

12 (A) enhance and conserve aquatic habitat to support aquatic biota,
13 wildlife, or plant life to the maximum extent practicable;

14 (B) facilitate access and utilization by recreational and commercial
15 user groups or establish or protect historical resources;

16 (C) minimize conflicts among competing uses of waters;

17 (D) minimize environmental risks and risks to personal and public
18 health and property; and

19 (E) not create any unreasonable obstructions to navigation;

20 (2) private docks and nonexempt docks in addition to statute, including
21 criteria for docks constructed of material other than wood or metal;

1 (3) shoreline stabilization projects, including measures designed to
2 repair or prevent erosion or flood risks and criteria for when placement of
3 material in a lake or pond may be authorized as the only technical solution to
4 prevent flooding or erosion;

5 (4) transmission lines, wires, or other similar underwater and overwater
6 encroachments;

7 (5) water intake pipes, including when or if intake pipes may be
8 authorized for private irrigation;

9 (6) dredging of the lands under lakes and ponds;

10 (7) reconstruction of existing structures in or encroaching on a lake or
11 pond; and

12 (8) additional provisions deemed necessary by the Department.

13 Sec. 3. ANR ENCROACHMENT RULES; IMPLEMENTATION

14 (a) On or before January 1, 2022, the Agency of Natural Resources shall
15 initiate the rulemaking required under 29 V.S.A. § 410.

16 (b) On or before July 1, 2022, the Agency of Natural Resources shall file a
17 final proposal of the rules required under 29 V.S.A. § 410 with the Secretary of
18 State under 3 V.S.A. § 841.

19 Sec. 4. EFFECTIVE DATE

20 The act shall take effect on passage.