

1 H.515

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; lake shoreland protection standards;

6 Connecticut River reservoirs

7 Statement of purpose of bill as introduced: This bill proposes to apply the lake

8 shoreland protection standards to protected shoreland area adjacent to the

9 Connecticut River reservoirs.

10 An act relating to application of the lake shoreland protection standards to
11 the Connecticut River reservoirs

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

13 Sec. 1. 10 V.S.A. § 1442 is amended to read:

14 § 1442. DEFINITIONS

15 As used in this chapter:

16 * * *

17 (10) "Lake" means a body of standing water, including a pond, a

18 Connecticut River reservoir, or a other reservoir, which may have natural or

19 artificial water level control. Private ponds shall not be considered lakes.

20 * * *

1 (14) "Private pond" means a body of standing water that is a natural
2 water body of not more than 20 acres located on property owned by a person or
3 an artificial water body of any size located on property owned by one person.
4 A "private pond" shall include a reservoir specifically constructed for one of
5 the following purposes: snowmaking storage, golf course irrigation,
6 stormwater management, or fire suppression.

7 * * *

8 (17) "Protected shoreland area" means all land located within 250 feet
9 of the mean water level of a lake that is greater than 10 acres in surface area.

10 * * *

11 (23) "Connecticut River reservoirs" means the following reservoirs
12 located on the Connecticut River:

13 (A) the Bellows Falls Reservoir, which extends 26 miles upstream
14 from the Bellows Falls Hydroelectric Project, Federal Energy Regulatory
15 Commission (FERC) No. 1855, to Chase Island in Windsor, Vermont;

16 (B) the Vernon Reservoir, which extends 26 miles upstream from
17 the Vernon Hydroelectric Project, FERC No. 1904, to the Walpole Bridge in
18 Westminster Station, Vermont; and

19 (C) the Wilder Reservoir, which extends 45 miles upstream from the
20 Wilder Hydroelectric Project, FERC No. 1892, to Wells River, Vermont.

1 Sec. 2. 10 V.S.A. § 1445 is amended to read:

2 § 1445. NONCONFORMING PARCELS; PERMIT STANDARDS

3 (a) Permit for nonconforming parcels. A permit applicant shall comply
4 with the requirements of subsection (b) of this section if the applicant cannot
5 meet the standard required under subdivision 1444(a)(1) of this title:

6 (1) on a parcel of land in existence on:

7 (A) July 1, 2014 and located in a protected shoreland area of a lake
8 that is not a Connecticut River reservoir; or

9 (B) July 1, 2016 and located in a protected shoreland area of a lake
10 that is a Connecticut River reservoir;

11 (2) due to one of the following limitations:

12 ~~(1)~~(A) parcel size;

13 ~~(2)~~(B) the site characteristic or site limitations of the parcel,
14 including presence of highway or ~~rights-of-way~~ rights-of-way and soil type; or

15 ~~(3)~~(C) application of municipal setback requirement in a municipal
16 bylaw adopted on or before:

17 (i) July 1, 2014 for a parcel of land located in a protected
18 shoreland area of a lake that is not a Connecticut River reservoir; or

19 (ii) July 1, 2016 for a parcel of land located in a protected
20 shoreland area of a lake that is a Connecticut River reservoir.

21 * * *

1 Sec. 3. 10 V.S.A. § 1446(b) is amended to read:

2 (b) Exemptions. The following activities in a protected shoreland area do
3 not require a permit under section 1444 or 1445 of this title:

4 * * *

5 (5) Construction within footprint.

6 (A) ~~Construction~~ construction within the footprint of an impervious
7 surface, existing as of July 1, 2014, that is located within the protected
8 shoreland area of a lake that is not a Connecticut River reservoir and that does
9 not result in a net increase in the amount of impervious surface on a parcel;

10 (B) construction within the footprint of an impervious surface,
11 existing as of July 1, 2016, that is located within the protected shoreland area
12 of a lake that is a Connecticut River reservoir and that does not result in a net
13 increase in the amount of impervious surface on a parcel.

14 * * *

15 (7) Agricultural activities. Agricultural activities on land in agricultural
16 production ~~on July 1, 2014,~~ provided that:

17 (A) no impervious surface shall be created or expanded in a protected
18 shoreland area except: when no alternative outside the protected shoreland
19 area exists, the construction of a best management practice is necessary to
20 abate an agricultural water quality issue, and the best management practice is

1 approved by the Secretary of Agriculture, Food and Markets under 6 V.S.A.
2 chapter 215; ~~and~~

3 (B) the agricultural activities within the protected shoreland area
4 comply with the rules adopted by the Secretary of Agriculture, Food and
5 Markets under 6 V.S.A. chapter 215 regarding agricultural water quality,
6 including accepted agricultural practices, best management practices, medium
7 and small farm operation, and large farm operation; and

8 (C) the land was in agricultural production:

9 (i) on July 1, 2014, for land located in the protected shoreland area
10 of a lake that is not a Connecticut River reservoir; and

11 (ii) on July 1, 2016, for land located in the protected shoreland
12 area of a lake that is a Connecticut River reservoir.

13 * * *

14 (16) Urban and industrial redevelopment. Construction, creation, or
15 expansion of impervious surface or cleared area within a protected shoreland
16 area, provided that:

17 (A) the area in which the impervious surface or cleared area will be
18 constructed, created, or expanded is:

19 (i) urban or industrial in nature;

20 (ii) contains ~~as of July 1, 2014~~ impervious surface or cleared area
21 as of July 1, 2014 for land located in the protected shoreland area of a lake that

1 is not a Connecticut River reservoir or as of July 1, 2016 for land located in the
2 protected shoreland area of a lake that is a Connecticut River reservoir; and

3 (iii) has been designated by municipal bylaw for redevelopment-;

4 (B) the municipality has adopted a shoreland bylaw or ordinance that:

5 (i) is at least as stringent as the permitting requirements and
6 exemptions of this chapter; or

7 (ii) requires best management practices or other controls that are,
8 as determined by the Secretary, functionally equivalent to compliance with the
9 permitting requirements and exemptions of this chapter.

10 * * *

11 Sec. 4. TRANSITION

12 A permit or registration under 10 V.S.A. chapter 49A for the creation of
13 impervious surface or cleared area within the protected shoreland area of a lake
14 that is a Connecticut River reservoir shall not be required on a parcel of land
15 for a project for which:

16 (1) all necessary State, local, or federal permits have been obtained prior
17 to July 1, 2016 and the permit holder takes no subsequent act that would
18 require a permit or registration under 10 V.S.A. chapter 49A; or

19 (2) a complete application for all applicable local, State, and federal
20 permits has been submitted on or before July 1, 2016, provided that the
21 applicant does not subsequently file an application for a permit amendment

1 that would require a permit under 10 V.S.A. chapter 49A and substantial
2 construction of the impervious surface or cleared area commences within two
3 years of the date on which all applicable local, State, and federal permits
4 become final.

5 Sec. 5. EFFECTIVE DATE

6 This act shall take effect on July 1, 2016.