

LCAR October 5, 2023, Act 159 – Proposed FWD and FWB trapping rules

Thank you, Chairman Squirrel, and members of the committee, for this opportunity to speak with you regarding the proposed rules resulting from A.159 and A.165. Trap trail setbacks will be my focus with a brief mention of control of dogs, an issue I deal with regularly as Bolton's Animal Control Officer.

My name is Rob Mullen from West Bolton. Pertinent to trapping and hounding, I have a Bachelor of Science in biology from UVM and am a nationally known wildlife artist and Signature Member of The Society of Animal Artists (www.robmullen.com).

As an artist, I have run 20 wilderness art expeditions from Labrador to Alaska and have observed and studied wildlife professionally for almost forty years. I am the Board Chair of the Vermont Wildlife Coalition (www.vtwildlifecoalition.org) and served on the A.159 trapping working group.

Before moving to what I believe is a clear violation of both the letter and intent of A.159, as an ACO, I wish to address two issues:

1. Whether a 50-foot setback is a well-reasoned or an arbitrary figure. In materials before this committee and in an interview with Vermont Public ([Vermont's Fish & Wildlife Department is accepting public comment on modernized trapping regulations | Vermont Public](https://www.vermontpublic.com/news/vermont-fish-wildlife-department-accepting-public-comment-on-modernized-trapping-regulations)), the FWD cites the length of dog leashes as the reason for the 50-foot setback figure. That would be a soundly reasoned distance where dogs are required to be on a leash. However, it is a baseless metric in a state with no leash law. Leash laws, if any, are by the authority of towns in Vermont under VSA Title 20 Chapter 193, subchapter 1 <https://legislature.vermont.gov/statutes/chapter/20/193>. Bolton, like most rural towns, does not have a leash law, but only requires control of your dog (i.e., in sight and with excellent recall). I have always considered it one of the benefits of rural life. An unleashed dog can cover 50 feet in a moment's inattention, making the FWD/FWB's figure analogous to tailgating in a car.

We had initially suggested 500-ft setbacks in the working group – the State's standard on ANR property - and the Trappers Association VP granted that his membership would agree to **not set traps ON trails**. At a subsequent meeting, he suggested 10-feet. I wrote the group and suggested a compromise of 100-feet – more likely within the reaction time distance to recall a dog. I received no reply.

Furthermore, the exception for traps set in culverts ignores the fact that many dogs, especially terrier breeds and mixes, LOVE tunnels. I have a husky/terrier mix (we think) who has never seen a culvert she doesn't want to run through. This exception weakens an already anemic setback rule that was supposed to establish s

2. Re A.165, as an Animal Control Officer, I find it downright Orwellian that the same people who want to enact statewide leash laws on the rest of us, twist into rhetorical pretzels to claim that packs of dogs running at large (a violation in every town) are legally considered "controlled" if they have a tracking collar and maybe a buzz collar on, even if they are miles from their owner. Calling it a "control collar" doesn't make it an effective control device. Without the backup of body language, it is very difficult to train a dog to understand what they are being buzzed for – presuming that the

range of the collar is sufficient in hilly country – a serious question with line-of-sight radio transmitters.

Act 159; ... (4) requirements for the location of traps, including the placing of traps for purposes other than nuisance trapping at a safe distance, from public trails, class 4 roads, playgrounds, parks, and other public locations where persons may reasonably be expected to recreate;

A. 159, Trail setbacks.

Contrary to the arbitrary definition the FWD and FWB put on it, “Public Trail” is not stated as having to be on public land in A.159, but to the contrary, given the addition of, “... *public locations where persons may reasonably be expected to recreate*” clearly intends to include most publicly used trails throughout the state, whether they are on public land or not. That is common sense because public land, federal (7.8%), state (6.4%), and municipal (1.1%), constitute less than 15% of our land area. Setbacks limited to such a small area would be of limited value.

The text box below is the resulting FWD/FWB proposed rule:

4.15 Trapping Set-backs: No traps or body-gripping traps shall be set on or within 50’ of the travelled portion of a legal trail, public trail or public highway unless set in the water. This setback requirement shall not apply to Wildlife Management Areas, ...

Leaving the 50-foot issue aside (and the WMAs), it seems in line with A.159. It is not. One also must read the fourteenth definition on page two. Far from following the letter and intent of A.159, the FWD and FWB have **arbitrarily and without authority** redefined “public trail.” A.159 clearly intended to include most if not all publicly used trails, wherever they are. The FWD/FWB declared “public trails” to only mean **trails on land owned by the state of Vermont** – about **6.4%** of the state (text box below).

Public hiking trails often traverse private land in Vermont, including many of the nearly 100 GMC access trails and trailheads for the Long Trail, Appalachian Trail, and Kingdom Heritage Trail as well as the main trails themselves. Having hiked the Long Trail “End-to-End,” I can personally attest that much of the trail can be readily accessed by trappers at automobile road crossings, and by ATV or snowmobile along even more numerous abandoned roads, logging roads, and ATV/snowmobile trails.

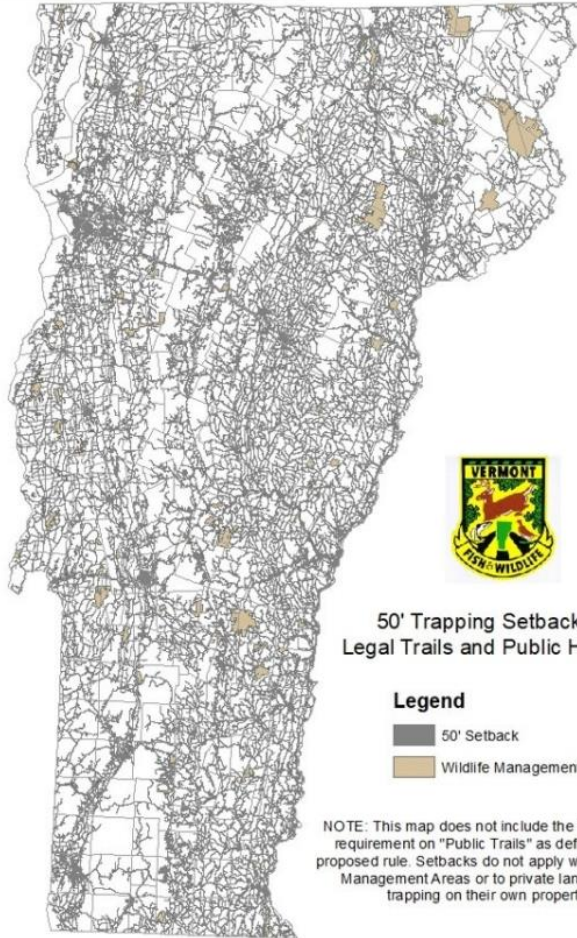
3.14 “Public Trail” for the purposes of this rule, means a pedestrian foot path on Vermont state- owned public land, open to the public, and designated and mapped by the managing agency or department.

The FWD’s arbitrary redefinition **summarily exempts trails on all federal lands** such as the entire Green Mountain National Forest, and the Conte and Missisquoi National Wildlife Refuges. Not only that, but the FWD/FWB further **exempted Wildlife Management Areas (WMAs) – about 40% of all state-owned lands** yielding an (inadequately) **protected area of less than 4% of the state**. The rationale for this exclusion given in the Working Group was that trappers helped pay for the WMAs through federal excise taxes. In materials before this committee, the FWD shifted to a rationale of management design, that WMAs were purchased to provide hunting, trapping, and fishing opportunities. Well, setbacks don’t prevent trapping, they do make other activities safer and the first activities that the Agency of Natural Resources list on their website for WMAs are, “ ... WMAs are enjoyed by the public for hiking,

wildlife observation, bird watching, and educational opportunities.” ([Wildlife Management Areas | Department of Environmental Conservation \(vermont.gov\)](#)). And as for paying for WMAs, trappers don’t pay any of the federal excise taxes that fund WMAs on traps. However, I do on the \$3/round ammunition for my 45-70 carbine, my Winchester 30-30, several other guns, fishing gear, boating equipment, and registration. This gutting of the public trails portion of the setback requirement occurred at the second trapping working group meeting that I missed because of my birthday. As soon as I heard of it, I sent an email protesting the unjustifiable move. I received no reply. At the third meeting, I repeated my objection and presented reprinted maps of public lands from the Agency of Natural Resources (below). On it, I had highlighted the few, scattered properties that the FWD’s public trail definition would affect. I had copies of the map for everyone. The FWD/FWB has been aware of this for over a year.

Recently, the FWD/FWB added mapped municipal trails approved by a Select Board to the list. There are about 67,000 acres of town forests in Vermont ([Town Forests | Vermont Urban & Community Forestry Program \(vtcommunityforestry.org\)](#)). Whether most trails in town forests would qualify under the mapped by the Agency of Transportation and approved by a Select Board criterion or not is doubtful (Bolton’s six miles, some of the most popular in the state and 20 years old, are not). Even if all were though, in a state of 6.154 million acres, it at best adds 1.08% to the land area on which trails would have a setback. With this addition, public trails in possibly as much as 4.68% of the state would be “protected” with 50-foot trap setbacks. Is that what the Legislature intended with A.159?

The FWD/FWB has added Class 1, 2, and 3 highways (*Class 4 highways were already mandated by the Legislature in A.159*), and “legal trails” (municipal land above) to the setback rule. Class 1,2,and 3 highways are year-round automobile roads. They are not prime destinations for unleashed dog recreation or, I would imagine, trapping. However, they do add 14,090 miles to a map of setbacks which looks amazing. The FWD has provided just such a map from the Agency of Transportation with all the public highways and “legal trails” delineated on it. It is an impressive amount of real estate. Until you remember that this is basically an automobile highway map of every single road in Vermont. All 15,631 miles of them. The map, while technically accurate as far as it goes, regarding meaningful safety measures for family pets, is misleading chaff.



**50' Trapping Setbacks on
Legal Trails and Public Highways**

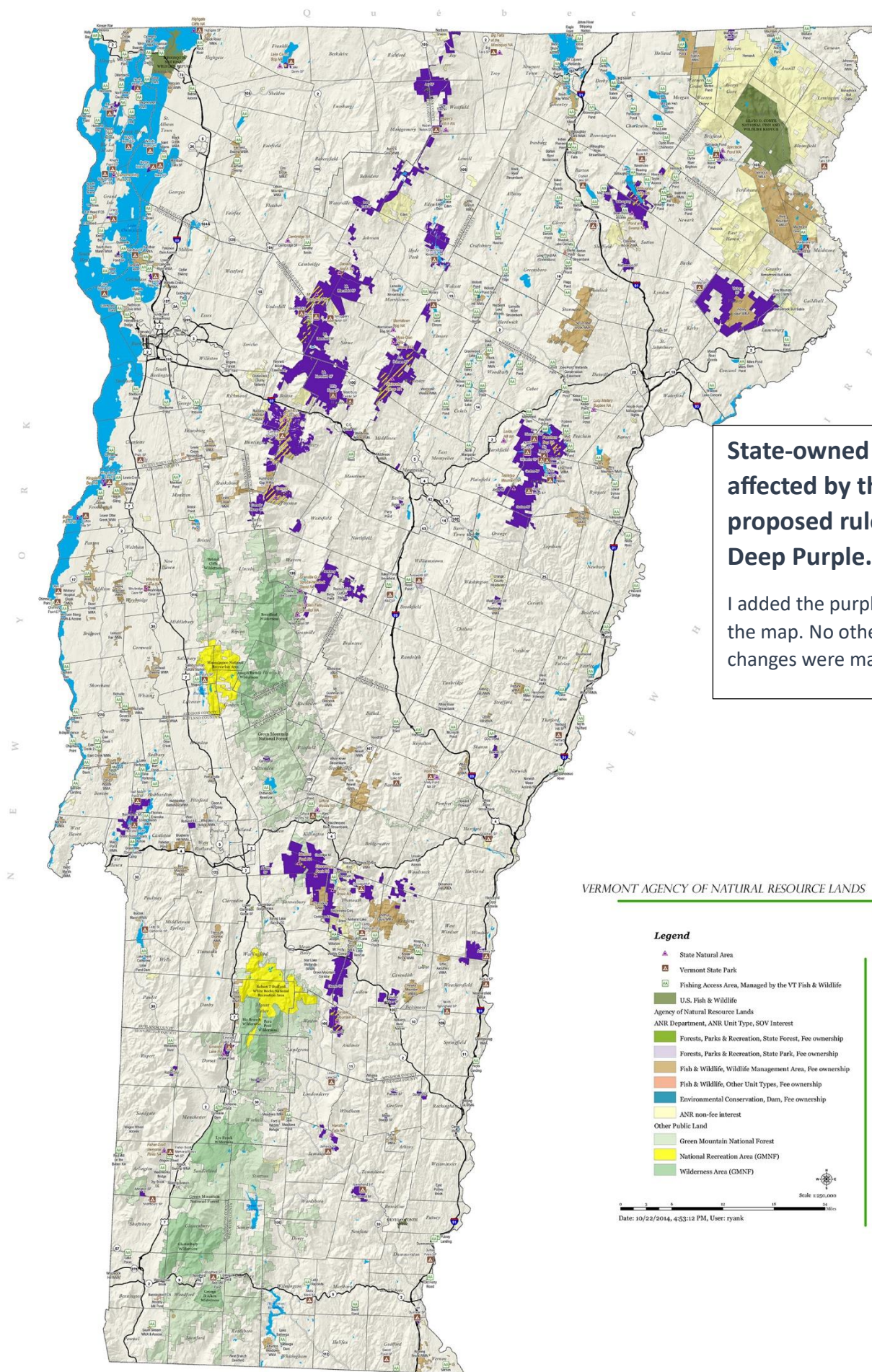
Legend

- 50' Setback
- Wildlife Management Areas

NOTE: This map does not include the 50' setback requirement on "Public Trails" as defined in the proposed rule. Setbacks do not apply within Wildlife Management Areas or to private landowners trapping on their own property.

Next page Map Notes: I highlighted the area affected by these setback rules in purple. The pale yellow is land which the ANR holds easements on but does not own. I made no other changes. The new Lamoille Valley Rail Trail runs from St. Johnsbury to Swanton. However, the state right-of-way is only 30-feet each side of the middle line of the trail, so a 50' setback could be moot.

Source: [ANR Lands.pdf](#)
[\(vermont.gov\)](#)



State-owned land affected by the proposed rule is in Deep Purple.

I added the purple to the map. No other changes were made.

VERMONT AGENCY OF NATURAL RESOURCE LANDS

Legend

- State Natural Area
- Vermont State Park
- Fishing Access Area, Managed by the VT Fish & Wildlife
- U.S. Fish & Wildlife Agency of Natural Resource Lands
- ANR Department, ANR Unit Type, SOV Interest
- Forests, Parks & Recreation, State Forest, Fee ownership
- Forests, Parks & Recreation, State Park, Fee ownership
- Fish & Wildlife, Wildlife Management Area, Fee ownership
- Fish & Wildlife, Other Unit Types, Fee ownership
- Environmental Conservation, Dam, Fee ownership
- ANR non-fee interest
- Other Public Land
- Green Mountain National Forest
- National Recreation Area (GMNF)
- Wilderness Area (GMNF)



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In closing, I first want to object, again, to the FWD minimizing the deaths of family pets in traps. A “rare” occurrence, that they have deigned to address because of public concern. The numbers of family pets killed in traps is likely higher than the FWD has records of, but however many there are, each one is horrific. They are beloved members of Vermont families, and such a tragic loss leaves scars. This unserious effort is very disappointing as was the baked-in bias of the Working Group (nine members from the FWD, FWB, VT Trappers Assoc., VT Sportsman’s Assoc., and the Association of Fish & Wildlife Agencies with only three – after the Commissioner was pressed to add Brena Galdenzi – wildlife advocates).

The FWD and FWB have proposed a rule that at first glance looks legit, but in fact, guts the law it is supposed to follow. We should not have to carefully parse every word of documents from public agencies charged with serving all of us to ferret out such dramatic deviations from their initially apparent meanings. And agencies should not circumvent the legislative intent of a law by arbitrarily changing definitions in it to suit their agendas and/or the wants of special interest groups.

Thank you,
Rob Mullen

“Snowy Overlook” Bobcat
12” x 9” acrylic - Mullen

