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MEMORANDUM

TO: Rep. Carolyn Partridge, Chair, House Committee on Agriculture and Forestry

FROM: Michael Snyder, Commissioner, Forests, Parks and Recreation

DATE: January 17,2018

RE: FPR Forestry Policy Priorities

Thank you for the chance to share and discuss with your committee some of our priority forest policy issues and suggested changes. This memo outlines our requests, organized by topic and with background and context for each and suggested draft language in certain cases. Deputy Commissioner Lincoln and I very much appreciate your interest in these topics and we look forward to answering your questions about them in committee and to working with you to act upon them.

Modern Wood Heat Initiative

What's the issue?
Wood is a local, renewable fuel source that supports healthy forests through management that creates jobs for our neighbors. When Vermonters heat with fossil fuels, 78 cents of every fuel dollar leaves the state, when we heat with wood, all those funds stay right here in our communities. Robust markets for low grade wood are essential to carrying out sustainable forest management.

Why does this matter to Vermonters?
With the loss of regional low-grade markets, modern wood heat represents an exciting new market opportunity. The 2016 CEP identifies thermal energy from wood heat as a critical way for Vermont to reach it's 90% renewable energy by 2050 goals. Replacing fossil fuel heating systems with modern wood heating systems will benefit local businesses, the forest product economy and Vermont forest landowners by keeping funds local. To make measurable progress towards State Energy Goal of 90% total energy from renewables by 2050, Vermont will need to install 70,000 pellet stoves, 11,000 residential pellet boilers, 2,700 commercial and institutional pellet boilers, and 280 woodchip boilers. If we make these changes, we will displace 40 million gallons of fossil fuel/year, saving Vermonters $120,000,000 annually in fossil fuel purchases (at $3.00/gallon)

HOW can we meet this goal?

Support the Wood Stove Change Out Program - $200,000
According to the 2015 Residential Fuel Assessment, 38% of Vermont households burned wood for at least some space heating. Heating with cord wood provides a market for low grade wood, creates resiliency in a cold climate, and is part of Vermont's cultural heritage.
The wood stove changeout program is an important piece of the modern wood heat picture, yet unfortunately there are thousands of old, inefficient wood stoves in use throughout the state that produce high quantities of particulate matter and use more wood than necessary to keep a home warm.

One solution is to fund the Clean Energy Development Fund's wood stove changeout program with $200,000. This money will go towards approximately 1000 stove change outs. Replacing old, non-EPA certified wood stoves with modern, efficient wood or pellet stoves will:

- Improve air quality both in and outside the home
- Save homeowners money by reducing the amount of firewood they need to burn
- Support small business by driving sales at local stove shops
- Drive public interest in learning more about modern wood heating

Purchase and Use Tax for Forestry Equipment

What's the issue?
In the 2017 session, H.495 exempted a specific list of forestry operations and processing equipment and their repair parts from Sales and Use tax to put Vermont's forest economy on a level playing field with the agricultural and forest economies in all other states in the region. FPR discovered shortly after the tax exemption went into effect that equipment that must be registered at DMV (for transportation between harvest sites) is subject to Purchase and Use tax, not Sales and Use.

Why does this matter to Vermonters?
This tax exemption creates an inconsistent policy and confusion for business owners that the Scott Administration seeks to correct. The amount of foregone revenue attributed to these machines and the exemption was accounted for in 2017 but the policy to exempt them all was incomplete, and this housekeeping provision will consistently align the intent to support the forest economy.

H.495 exempted a specific list of equipment (and its repair parts) to make the new policy clear in implementation, outreach and enforcement. The exempted equipment is specific enough to forest operations that it is eligible, regardless of the occupation of the purchaser or intended use, which eliminates the need for a litmus test during a transaction. When purchasing repair parts for this equipment, an S-3W form is required to affirm that the parts will be used for exempt machines.

How can we solve this problem?
By updating the policy, the following fixes will be made:

- Exempting the previously used list of equipment and parts from Purchase and Use tax: skidders with grapple and cable, feller bundlers, cut to length'processors, forwarders, log loaders, loader slashers, delimbers, whole tree chippers, stationary screening systems, firewood processors, elevators and screens and the addition of portable sawmills.
- Adding statutory language to include all integrally built and towable or trailed units
- Those registering an exempt machine at the Department of Motor Vehicles will be required to provide an S-3W Tax Exemption Certificate
- Outreach from the Departments of Forests, Parks and Recreation, Tax and Motor Vehicles that will explain the exemption, eligibility requirements and proper documentation during transactions.

The policy will not exempt:

- Motor vehicles that can be separated from an exempt piece of equipment.
- Annual registration and fee requirements.

Permit Relief for Forest Processing

What's the issue?
Working farm and forest lands, which form the majority of Vermont's iconic backdrop and cultural identity, produce high volumes of low value commodities that must be processed to increase their value, be converted into retail goods and sustain the economic activity necessary to support the supply chain continuum. Farming, maple production and logging below 2,500' are all activities exempt from Act 250 jurisdiction, but the processing of forest products is not exempt. The logistical, seasonal and weather-related challenges that are inextricably linked to the production of working lands commodities are why the existing Act 250 exemption is essential for their survival. Typical Act 250 permit conditions, such as limiting traffic, noise and hours of operation, for operations that at times must work seven days a week or around the clock for extended periods when the conditions are most appropriate for harvesting the related raw product, could quickly eliminate the viability and operability of working lands businesses. Act 250 also considers the impact of a development on Primary Agricultural Soils and Primary Forest Soils (Criterion 9b and 9c) to protect the largest blocks possible of working land, and working lands need a market for the commodities grown on them. Criterion 9b has been a challenge for some operations as they are typically sited in rural areas and outgrowths and diversifications of farming operations.

Why is this important to Vermonters?
As our winters get shorter and summers have prolonged wet conditions, allowing processors of forest products the same flexibility that has been commonplace in agriculture and maple production will relieve them of conditions that can be unworkable. An adage that is ingrained in the culture of those that work the land is to "make hay when the sun shines" and working hard when the conditions are right is critical to environmental responsibility and fulfilling obligations to landowners, employees and lenders. These operations cannot simply add machines, employees or significant capacity other than working longer hours when conditions are suitable. Operation

that process working lands commodities enable the existence of the entire supply chain, all the way back to the landowner and sustains an incalculably greater magnitude of working and undeveloped acres than they impact through relatively small developments.

Who is affected?
The entire supply chain, from landowners, consulting foresters, loggers, truckers and processing business owners are particularly sensitive as they implement changes in practices to enhance the protection of water quality and account for the significant cost of overhead in these businesses while competing in a global marketplace.

How can we solve this problem?
Policymakers should consider adjusting jurisdictional triggers, criteria standards and how they apply to applicants who will process working lands commodities (farm and forest derived) to

- create an incentive and an acknowledgement that these operations have always existed to perpetuate a land use that is enabling and complimentary of the Act 250 vision.

Tree Warden Statutes — Proposed Amendments

Areas Identified for Clarification
The following areas would be considered:

- Define terms: Several key terms are lacking a definition including "public tree," "hazard tree" and "public ways and places."
- Create consistent language: There are several statutes that reference the management of roadside trees that are in conflict, including penalties and roles.
- Establish a hearing process: The statutes call for a hearing process when removing certain trees, but lacks clarity regarding the required process.
- Update state governance: To be consistent with other statutes, an update ¯6 the section on 'Control of infestation' to include the Commissioner of Forests, Parks and Recreation.
- Add reporting element: To enhance technical assistance to communities, establishing a reporting element of tree warden appointments to the Department of Forests, Parks and Recreation.

This proposal is a combination of housekeeping and substantive changes. The housekeeping elements seek to eliminate conflicting provisions in Title 24, Title 19 (town highways) and Title 30 (utilities) related to the authority of the tree warden versus town highway and utility authority for removal of public trees and penalties for unauthorized removal of public trees. The substantive elements include providing definitions of "public tree," "hazard tree" and "public ways and places" and to eliminate existing conflicting statutory provisions in different titles and establish a clear appeal and hearing process.

The tree warden statutes were enacted in 1904 and have had minimal amendments since enactment. The statutes need to be updated to clarify key elements to improve implementation and minimize conflicts that are on the rise. The tree warden is appointed by the selectboard and has the responsibility of caring for the public trees in public ways and places. The role of the tree warden has become more important as Vermont communities become more urbanized and as the importance of trees, especially roadside trees for stormwater management and other ecological, social and economic values are realized. Our Urban & Community Forestry Program works closely with tree wardens and other town officials to manage public trees. The call for clearer language has been repeatedly voiced from all interested parties and would benefit everyone. Some landowners have been issued fines in the range of one million dollars recently for cutting trees in a public right-of-way that they believed they had the authority to cut, due to the conflicting and unclear existing statutory provisions. The primary purpose of the proposed amendments is to provide clarification in implementing the statutes and to enhance both localflexibility and technical assistance to communities.

Draft Language

Vermont Tree Warden Statutes

TITLE 24: Municipal and County Government

CHAPTER 033: MUNICIPAL OFFICERS GENERALLY

§ 871. Organization of selectmen; appointments

(a) Forthwith after its election and qualification, the selectboard shall organize and elect a chair and, if so voted, a clerk from among its number, and file a certificate of such election for record in the office of the town clerk. The selectboard shall thereupon appoint from among the legally qualified voters a tree warden and may thereupon appoint from among the legally qualified voters the following officers who shall serve until their successors are appointed and qualified, and shall certify such appointments to the town clerk who shall record the same:

(1)three fence viewers;

(2)a poundkeeper, for each pound; voting residence in the town need not be a qualification for this office provided appointee gives his or her consent to the appointment;

(3)one or more inspectors of lumber, shingles, and wood;

(4)one or more weighers of coal; and

(5)one town service officer. (Amended 1963, No. 74, § 2; 2007, No. 121 (Adj. Sess.), § 18; 2015, No. 71 (Adj. Sess.), § 2.)

(b) Upon appointing the tree warden, appointee information shall be provided to the Commissioner of Forests, Parks and Recreation

CHAPTER 067: PARKS AND SHADEPUBLIC TREES

2500. Definitions.

(1)Hazard Tree: Trees with visible defects indicating they have a high potential for failing and a high potential for striking people or property that may be within range.
(2)Public Tree: **All** trees within a public ways or places or on the boundaries thereof.
(3)Public Ways and Places: Public rights-of-ways along town highways, and improved municipal property, excluding municipal forests or other undeveloped forested lands.

§ 2501. No changes to this section

§ 2502. Tree wardens and preservation of shade public trees

Shade and ornamental tTrees within the limits of public ways and places are hereby designated public trees., as defined in this chapter, and such public trees shall be under the control of the tree warden. The tree warden may plan and implement a town or community shade public tree preservation program for the purpose of shading, and beautifying public ways and places, and providing public benefits by planting new trees and shrubs; by maintaining the health, appearance and safety of existing trees through feeding, pruning and protecting them from noxious insect and disease pests and by removing diseased, dying or dead trees which create a hazard to public safety or threaten the effectiveness of disease or insect control programs. Where the public way and place abuts lands used for agricultural or forest land uses, the tree warden shall work with the landowner and shall take into consideration the agriculture and working forest land uses in making a determination of whether a public tree shall be cut or removed, in whole or in part, and shall balance the public interests with the agricultural and working forest land interests

§ 2503. Appropriations

A municipality may appropriate a sum of money to be expended by the tree warden, or if one is not appointed, by the mayor, aldermen, selectmen or trustees for the purpose of carrying out this chapter.

§ 2504. Removal of trees, exception

The tree warden may remove or cause to be removed from the public ways or places all public trees and other plants upon which noxious insects or tree diseases naturally breed. However, where an owner or lessee of abutting real estate shall annually, to the satisfaction of such warden, control all insect pests or tree diseases upon the trees and other plants within the limits of a highway or place abutting such real estate, such trees and plants shall not be removed.

§ 2505. Deputy tree wardens

A tree warden may appoint deputy tree wardens and dismiss them at pleasure.

§ 2506. Regulations for protection of trees

A tree warden shall enforce all laws relating to shade public trees and may prescribe such rules and regulations for the planting, protection, care or removal of public-shade trees as he deems expedient. Such regulations shall become effective pursuant to the provisions of chapter 59 of this title.

§ 2507. Cooperation

The tree warden may enter into financial or other agreements with the owners of land adjoining or facing public ways and places for the purpose of encouraging and effecting a community wide shade public tree planting and preservation program. He may cooperate with federal, state, county or other municipal governments, agencies or other public or private organizations or individuals and may accept such funds, equipment, supplies or services from organizations and individuals, or others, as deemed appropriate for use in carrying out the purposes of this chapter.

§ 2508. Cutting shade public trees; regulations

Unless otherwise provided, Notwithstanding any other provision of law, a public shade tree shall not be cut or removed, in whole or in part, except by a tree warden or his deputy or by a person having the written permission of a tree warden, including, without limitation, an owner in fee of land encumbered by a public easement or right-of-way easement. even if he be the owner of the fee in the land on which such tree is situated. Where the public way and place abuts lands used for agricultural or forest land uses, the tree warden shall work with the landowner and shall take into consideration the agriculture and working forest land uses in making a determination of whether a public tree shall be cut or removed, in whole or in part, and shall balance the public interests with the agricultural and working forest land interests.

§ 2509. Cutting shade public trees; posting and hearing

I. felled without a public hearing by the tree warden, except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, ne

(a) The tree warden shall post public notice of the intent to cut or remove, in its entirety, a public tree that is 6 inches or greater in diameter one foot from the ground, for 15 days prior to cutting or removing such tree, except that when a public tree is infested with or infected by a tree pest, or when a public tree con§titutes a hazard to public safety, or when a public tree is less than 6 inches in diameter one foot from the ground, no public notice shall be required. Public notice shall be in a newspaper of general circulation and posting notice on each tree to be cut or removed. This provision shall not apply to removal of limbs or other partial removal associated with regular maintenance of a public tree.

In all cases the decision of the tree warden shall be final, except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality. Any person who is aggrieved by a decision of the tree warden to cut or remove, in its entirety, a public tree that is 6 inches or greater in diameter, one foot from the ground, may appeal in writing to the tree warden within 15 days of the posting of public notice. If an appeal is filed in writing with the tree

warden within 15 days of posting of notice of removal of a public tree, the tree warden shall hold a public hearing for the purpose of receiving public comment on the proposed removal of the public tree within 10 after the appeal period.

(c) In all cases the decision of the tree warden shall be final except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality.

§ 2510. -Penalty

Whoever shall, willfully, mar or deface a public shade tree without the written permission of ,a tree warden or legislative body of the municipality shall be fined not more than $50.00 for the use of the municipality. Any person who, willfully, critically injures or cuts down a public shade tree without written permission of the tree warden, or the legislative body of the municipality shall be fined not more than $500.00 an amount in accordance with 13 V.S.A. §3602 - - for each tree so injured or cut, for the use of the municipality. (Amended 1969, No. 238 (Adj. Sess.), § 7.)

§ 2511. Control of infestations

When an insect or disease pest infestation upon or in public or private shade trees threatens other public or private trees, is considered detrimental to a community shade public tree preservation program, or threatens the public safety, the tree warden may request surveys and recommendations for control action from the Secretary of Agriculture, Food and Markets and Commissioner of Forests, Parks and Recreation. On recommendation of the Secretary of Agriculture, Food and Markets and Commissioner of Forests, Parks and Recreation, the tree warden may designate areas threatened or affected in which control measures are to be applied and shall publish notice of the proposal in one or more newspapers having a general circulation in the area in which control measures are to be undertaken. On recommendation of the Secretary and Commissioner, the tree warden may apply measures of infestation control on public and private land to any trees, shrubs, or plants thereon harboring or which may harbor the threatening insect or disease pest. He or she may enter into agreements with owners of such lands covering the control work on their lands, but the failure of the tree warden to negotiate with any owner shall not impair his or her right to enter on the lands of said owner to conduct recommended control measures, the cost of which shall be paid by the municipality. (Amended 1969, No. 238 (Adj. Sess.), § 8; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 2512. Repealed. 1969, No. 238 (Adj. Sess.), § 9.

TITLE 32: Taxation and Finance

CHAPTER 017: FEES AND COSTS

Subchapter 008: Town Officers **§**

1680. Tree warden

When a town or incorporated village fails to fix the compensation of a tree warden or his deputies, they shall receive such compensation as the selectmen or trustees determine.

Other Statutes Related to Trees

TITLE 30: Public Service

CHAPTER 071: TELECOMMUNICATIONS AND ELECTRIC WIRES AND POLES ALONG HIGHWAYS, RAILROAD TRACKS, AND CEMETERIES; TRANSPORTATION BOARD AND SELECTBOARD ROLE

§ 2506. Trees not to be injured; exception; penalty
A tree within a street or highway shall not be cut or injured in constructing, maintaining or repairing a line of wires, without the written consent of the municipal tree warden adjoining owner or occupant, unless the transportation board or the selectmen of the town in which the tree is situated, after due notice to the parties and upon hearing, shall decide that such cutting or .injury is necessary. A person or corporation cutting or injuring such trees shall pay the damages, if any, awarded on such hearing, before cutting or injuring the trees. A person or corporation that violates a provision of this section shall be fined an amount in accordance with 13 V.S.A. §3602 for each tree so cut or injured. (Amended 1989, No. 246 (Adj. Sess.), § 31.)

§ 2527. Penalties; injuries to trees
A person or corporation maintaining or operating a line of wires, that cuts down, mutilates, or injures the trees standing upon the lands of another, or a person or corporation that affixes or causes to be affixed to the property of another, a post, structure, fixture, wire, or other apparatus for telephonic, telegraphic, or other electrical communication, without first procuring the right to do so by application to and determination of the Transportation Board or the selectboard of the town, agreeably to this chapter, or first obtaining the consent of the owner or lawful agent of the owner of such property, shall be fined an amount in accordance with 13 V.S.A. §3602 for each tree so cut or injured. (Amended 1989, No. 246 (Adj. Sess.), § 34.)

TITLE 19: Highways

CHAPTER 009: REPAIRS, MAINTENANCE AND IMPROVEMENTS

Subchapter 1: General Duties Of Towns

§ 901 Removal of roadside growth
Trees located in whole or in part within the limits of a town highway or right-of-way shall not be cut or removed without the prior approval of the tree warden in accordance with chapter 67 of Title 24. A person, other than the abutting landowner, shall not cut, trim, remove or otherwise damage trees growing within the limits of a state highway or any grasses, shrubs, or vines, or trees growing within the limits of a state or town highway, without first having obtained the consent of the agency for state highways or the board of selectmen for town highways.

§ 902 Penalty for removal
A person who willfully or maliciously cuts, trims, removes or otherwise damages trees within the limits of a state highway right-of-way shall be fined an amount in accordance with 13 V.S.A. §3602. of A person who willfully or maliciously cuts, trims removes or otherwise damages

grasses, shrubs or vines, or trees within highway limits in violation of section 901 of this title shall be fined not more than $100.00 nor less than $10.00, for each offense. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 903 Agreements for planting

The agency or the board of selectmen may enter into agreements with individuals or organizations who wish to plant grasses, shrubs, vines, trees or flowers within highway limits. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 904 Brush removal

The selectmen of a town working with the approval of the tree warden pursuant Title 24 chapter 67, if necessary, shall cause to be cut and burned, or removed from within the limits of the highways under their care, trees and bushes which obstruct the view of the highway ahead or that cause damage to the highway or that are objectionable from a material or scenic standpoint. Shade and fruit trees that have been set out or marked by the abutting landowners shall be preserved if the usefulness or safety of the highway is not impaired. Young trees standing at a proper distance from the roadbed and from each other, and banks and hedges of bushes that serve as a protection to the highway or add beauty to the roadside, shall be preserved. On state highways, the secretary shall have the same authority as the selectmen. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Use Value Appraisal (Current Use)

Technical Legislative Amendments

Current Use Program, 32 V.S.A. §§3751, et.seq.:

The Current Use program continues to grow in size and complexity. There are currently over 15,000 forest landowners and 2.1 million acres of enrolled forest land. Many of the proposed changes have been identified in consultation with the Department of Taxes, Property Valuation and Review to address administrative inefficiencies. Other programmatic changes are proposed to improve program oversight and implementation.

Changes to the Current Use program fall into the following categories:

1. **Initial recipient of Forest Management Activity Reports**
   Currently, FPR is the initial recipient of Forest Management Activity Reports (FMAR), which contain personal and confidential information of the landowner (e.g. social security number). This change in 32 V.S.A. §3755(b)(2) and (3) would require that FMARs be filed with PVR and require PVR to forward to FPR a document with the confidential information removed, instead of FMARs being filed with FPR and then forwarded to PVR.

2. **Plan Filing Requirements**
   Amend 32 V.S.A §3755(b)(1)(C) to clarify the requirement that forest management plans be filed in the manner and form as required by FPR. This was previously included in

statute, but was removed. FPR believes that through the Commissioner's authority to establish the Minimum Management Standards, FPR may already be able to require a specific manner and form for the filing of a management plan. However, explicit authority in statute will clarify and reinforce the Department's ability to create administrative efficiencies in the program, as they may relate to filing of forest management plans.

3. **Access Authority to Verify Compliance**
   Expressly provide statutory authority for FPR foresters, including county foresters, AMP foresters and other FPR foresters, ANR staff with expertise in the area of an alleged violation (e.g. DEC water quality and enforcement staff) and DFW Wardens to access UVA enrolled parcels and/or parcels that have been discontinued or removed from the UVA Program but still have the lien attached, to conduct inspections of the property related to 'UVA Program requirements and compliance with associated statutory and regulatory requirements. This would be achieved through changes to 32 V.S.A §3755(b)(3). It is FPR's opinion that the statute currently authorizes access implicitly by imposing requirements upon FPR to conduct inspections and ensure compliance with UVA program requirements, but this has been challenged by landowners.

4. **Adverse Inspection Report Timing**
   Provide appropriate flexibility for timing of filing of Adverse Inspection report. Currently, the statute requires that an adverse inspection report be filed within 30 days of the inspection, but the "inspection" is not defined and can involve multiple visits to a property to gather requisite information. Additionally, FPR County/AMP Foresters often provide an initial compliance schedule to allow a landowner to correct a technical violation rather than proceed directly to the enforcement process. This clarification would acknowledge and allow these activities as part of an "inspection". The 30-day window has been challenged by landowners in the past year so this clarification of what an inspection involves will resolve this issue.

5. **Technical Correction - 2010**
   Technical correction to fix a mistake from 2010 to 3755(b)(1)(A) **&(B)** that was enacted as part of Act No. 143 of 2012, section 47, related to eligibility requirements for ecologically sensitive treatment areas and conserved land. The amended language proposed in Act 143 was enacted but was not transcribed into the official version of the Vermont Statutes Annotated (the "green books"). Legislative Council has this language and will incorporate into a technical corrections bill that is sponsored by the House Government Operations Committee each year. The language to be re-inserted relates to the initial filing of a forest or conservation management plan and the required plan updates every 10 years. FPR has been working to develop a standard forest management plan and this language requiring that plans be submitted in the form and manner as prescribed by the Commissioner will assist with this effort.

The language below 32 V.S.A §3755 includes all changes as summarized above:

§ 3755. Eligibility for use value appraisals

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings which meet the criteria contained in this subchapter and in the regulations adopted by the Board shall be eligible for use value appraisal.

(b) Managed forest land forestland shall be eligible for use value appraisal under this subchapter only if:

(1) the land is subject to a forest management plan, or subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), which:

(A) is signed by the owner of a tract the parcel;

(B) which complies with subdivision 3752(9) of this titley,

(C) is filed in such a manner and such a form as prescribed by the Department of Forests, Parks and Recreation and approved by the Department; and

I'D) by October 1, which provides for continued conservation management or forest crop production on the tract parcel for at least ten years. During a period of use value appraisal ~~under this subchapter, a conservation or forest management plan for at least ten years, including the 12-month period beginning April 1 of the year for which use value appraisal is sought, signed by the owner, shall be on file with the department in such a manner and in such form as is~~ prescribed by the department. Upon the An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation no later than October 1 and shall be effective for a ten-year period beginning the following April 1. Prior to expiration of a ten year tenyear plan and no later than April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for at least the next succeeding ten years to remain in the program.

(A)(E) The department may approve a forest management plan which provides for the maintenance and enhancement of the tract's wildlife habitat where clearly consistent with timber production and with minimum acceptable standards for forest management as established by the commissioner of forests, parks and recreation.

(B(F)The Department, upon giving due consideration to resource inventories submitted by applicants, may approve a conservation management plan, consistent with conservation management standards, so as to include appropriate provisions designed to preserve: areas with special ecological values; fragile areas; rare or endangered species; significant habitat for wildlife; significant wetlands; outstanding resource waters; rare and irreplaceable natural areas; areas with significant historical value; public water supply protection areas; areas that provide public access to public waters; open or natural areas located near population centers, or historically frequented by the public. In approving a plan, the department shall give due consideration to: the need for restricted public access where required to protect the fragile nature of the resource; public accessibility where restricted access is not required; facilitation of appropriate, traditional public usage; opportunities for traditional or expanded use for educational purposes and for research.

(2) A management report of whatever activity has occurred, signed by the owner, has been filed with Property Valuation and Review by February 1 of the year following the year when the management activity occurred.

(3) There has not been filed with the Director an adverse inspection report by the Department stating that the management of forestland or conservation land is contrary to the forest or

conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management. The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall include a detachable section be signed by all the owners that shall contain the federal tax identification numbers of all the owners. The section containing federal tax identification numbers shall not be made available to the general public, but shall be forwarded to the Commissioner of Taxes within 30 days after receipt and used for tax administration purposes. With the exception of sensitive personal identification information, all information contained within the management activity report shall be forwarded to the Department of Forests, Parks and Recreation. If any owner shall satisfy the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan which is required to be filed on or before October 1, or a management plan update which is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report which is required to be filed on or before February 1 of the year following the year when the management activity occurred, the Department may receive that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

(c) The Department of Forests, Parks and Recreation shall periodically review the management plans and each year review the management activity reports that have been filed. At intervals not

use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion. The Department and Agency of Natural Resources staff with the expertise to evaluate compliance with the requirements of this chapter and the minimum acceptable standards for forest or conservation management and those staff that may be required to ensure the safety of such staff, shall have the authority to access and inspect each parcel of managed forestland or conservation land to which a UVA lien applies to forestland or conservation land to verify that management been carried out in accordance with a management plan in effect and the minimum acceptable standards for conservation or forest management. Parcels with managed forestland actively enrolled shall be inspected at intervals not to exceed 10 years. If that Department finds that the management of the tract is contrary to the conservation or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials, and the Director an adverse inspection report within 30 days of the conclusion of the inspection process.

(d) After a parcel of managed forestland has been removed from use value appraisal due to an adverse inspection report, a new application for use value appraisal will not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to his or her qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of 1 V.S.A. § 317(c)(6).

(f) On or before September 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the tune of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review. (Added 1977, No. 236 (Adj. Sess.), § 1; amended 1983, No. 220 (Adj. Sess.), §§ 4, 5; 1987, No. 57, § 4, eff. July 1, 1988; 1987, No. 76, § 18; 1993, No. 49, § 26; 1995, No. 169 (Adj. Sess.), § 3, eff. May 15, 1996; 1995, No. 178 (Adj. Sess.), § 287; 1997, No. 60, § 68e; 2001, No. 140 (Adj. Sess.), § 32, eff. June 21, 2002; 2007, No. 205 (Adj. Sess.), § 5, eff. June 10, 2008; 2011, No. 59, § 10; 2011, No. 143 (Adj. Sess.), § 47, eff. May 15, 2012; 2013, No. 159 (Adj. Sess.), § 16d; 2015, No. 134 (Adj. Sess.), § 4, eff. May 25, 2016.)