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Agency of Natural Resources

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MEMORANDUM

TO: Senate Committee on Natural Resources and Energy
House Committee on Agriculture & Forestry
House Committee on Natural Resources, Fish & Wildlife
House Committee on Energy and Technology
Senate Committee on Appropriations
House Committee on Appropriations

FROM: Michael C. Snyder, Commissioner, Department of Forests, Parks and Recreation

DATE: January 17, 2017

RE: Policy for Reimbursement of Fire Suppression Costs, Sec. 12, Act 171

In the 2016 Legislative Session, the Vermont General Assembly enacted Act 171, which included amendments to Subchapter 4 of Chapter 83 of Title 10 of the Vermont Statutes Annotated related to forest fires, fire prevention and Town Forest Fire Wardens. Sec. 11 No. 171 (Adj. Sess.) 2015. Section 11 of Act 171 amended 10 V.S.A. §2643 by removing paragraph (b) that required the State to reimburse a town for its forest fire suppression costs. Section 12 of Act 171 directed the Commissioner of the Department of Forests, Parks and Recreation (“FPR” or “Department”) to develop a policy that provides the criteria the Department shall use in determining whether and how to reimburse towns for the costs of forest fire suppression on Agency owned lands and non-Agency owned lands. The Department was directed to develop this policy in consultation with the Vermont League of Cities and Towns (VLCT) and other interested parties.

Since July, 2016, Department staff have consulted with representatives of VLCT, and both the Department and VLCT sent out surveys to town Fire Chiefs and Town Forest Fire Wardens, requesting information on past reimbursements for fire suppression costs requested and provided to their towns. The Department and VLCT consolidated the responses and discussed whether reimbursement for forest fire suppression costs on lands not owned by the Agency of Natural Resources is appropriate and if so, what conditions and criteria should be used to determine whether reimbursement is warranted. The attached draft Policy is the result of this coordination and the Department’s experience in administering the fire protection program in the State.

Forest fires pose risks to the State of Vermont, including threats to public welfare, private and public property and damage to natural resources. The time and effort involved in forest fire suppression can involve costs to towns and local fire departments. FPR recognizes that these costs are part of the expected response by fire departments and that most fire departments receive some funding from towns for all types of fire protection. As FPR does not act as first responders to fires that occur on lands owned by the Agency of

Natural Resources (ANR), we rely on towns to provide forest fire suppression response. For fires that potentially threaten ANR lands, FPR believes that town forest fire suppression actions that prevents or diminishes the damage to ANR lands is a critical activity and a valid reimbursable expense. The Commissioner will make the determination of whether a forest fire on non-Agency owned lands but threatens ANR lands is eligible for reimbursement.

The FPR policy proposes a flat rate per hour for reimbursement of forest fire suppression costs that are actually paid by the town in which the fire occurred. The Commissioner will determine the reimbursement rate and will annually review the rate and adjust as appropriate. The rate will be included in the Town Forest Fire Handbook, posted on the FPR website and distributed annually to the Town Forest Fire Wardens. The reimbursement rate for 2017 shall be \$500 per hour and requires, at a minimum, that at least one fire truck and two fire fighting personnel are actively involved in fire suppression activities. This flat rate of reimbursement will apply to forest fires on ANR owned lands and forest fires that occur on lands not owned by ANR, but which threaten ANR lands. The flat rate per hour will be payable directly to the town in which the fire occurred only after the Town Forest Fire Warden submits the FPR 'Forest Fire Suppression Expense Form' to that town and that town has paid for forest fire suppression costs associated with that fire. Also, all other applicable requirements of Subchapter 4, Chapter 83 of Title 10 of the Vermont Statutes Annotated must be satisfied. The new policy replaces the previous statutory reimbursement approach that was complicated and inequitable, requiring the fire warden to track the time of individual firefighters at pay rates dependent on their town's highway labor rate and all pieces of equipment involved in fire suppression.

The Department believes this proposed Policy is an equitable and responsible approach to assisting towns and town fire departments with fire suppression costs associated with or threatening ANR owned lands.

Department of Forests, Parks and Recreation
Policy for Reimbursement of Fire Suppression Costs

January 17, 2017

WHEREAS, Section 12 of Act 171 of the Biennial Session of the Vermont General Assembly, 2016 requires the Commissioner of the Department of Forests, Parks and Recreation to develop a policy that provides the criteria the Department of Forests, Parks and Recreation shall use in determining whether and how to reimburse towns for the costs of fires suppression on lands not owned by the Agency of Natural Resources; and

WHEREAS, Act 171 amended 10 V.S.A. §2643(a) and (b) to repeal the requirement for the state to reimburse towns for fire suppression costs on lands not owned by the Agency of Natural Resources and added a new provision making reimbursement discretionary, based upon a policy to be developed by the Department of Forests, Parks and Recreation; and

WHEREAS, Act 171 amended 10 V.S.A. §2643(b) and (c) to require the Department to reimburse towns for fire suppression costs on lands owned by the Agency of Natural Resources at a rate determined by the Commissioner of the Department of Forests, Parks and Recreation and according to the Department fire suppression reimbursement policy to be developed pursuant to Section 12 of Act 171; and

WHEREAS, very few towns have requested reimbursement for fire suppression costs in the past; and

WHEREAS, towns do not receive reimbursement for fire suppression costs related to structure fires; and

WHEREAS, the Department of Forests, Parks and Recreation does not provide for reimbursement of fire suppression costs in its annual budget; and

WHEREAS, there may be limited situations where reimbursement of town fire suppression costs on lands not owned by the Agency of Natural Resources may be appropriate, in particular, where such fires threaten public lands owned by the Agency of Natural Resources.

NOW, THEREFORE, the Department of Forests, Parks and Recreation hereby adopts this policy to establish the criteria the Department will use to determine whether and how to reimburse a town for forest fire suppression costs.

FOREST FIRE SUPPRESSION REIMBURSEMENT POLICY

I. General Eligibility Requirements for Reimbursement of fire Suppression Costs on All Lands

- A. To be eligible for reimbursement of forest fire suppression costs, the Town in which the fire occurred must have actually paid for such forest fire suppression costs and must provide documentation of the payment of such costs to the Commissioner; and
- B. The fire department charged with fire protection in the town in which the fire occurs must supply a minimum of one fire department truck and two fire department personnel. The equipment and personnel must be actively engaged in forest fire suppression activities for the entire time requested or required for suppression of the forest fire; and
- C. The Town Forest Fire Warden must comply with the requirements of Chapter 83, Subchapter 4 of Title 10 of the Vermont Statutes Annotated; and
- D. The reimbursement rate shall be determined by the Commissioner of the Department of Forests, Parks and Recreation (“FPR” or “Department”) and shall be reviewed annually and adjusted as appropriate. The reimbursement rate will be provided to Town Forest Fire Wardens and posted on the FPR website.

II. Lands Owned by the Agency of Natural Resources

- A. The general eligibility requirements set forth in section I. above must be satisfied; and
- B. “Lands owned by the Agency of Natural Resources” shall be defined as lands owned in fee simple by the Departments of Forests, Parks and Recreation, Fish and Wildlife and Environmental Conservation. “Lands owned by the Agency of Natural Resources” shall not include easement interests or other partial interests in lands held by the Agency of Natural Resources, The Department of Forests, Parks and Recreation, the Department of Fish and Wildlife, or the Department of Environmental Conservation and
- C. The State will reimburse 100% of approved costs of the town in which the fire occurred at the reimbursement rate determined by the Commissioner, that are paid by the town in which the fire occurred, and reported and submitted to the Department by the Town Forest Fire Warden in accordance with Chapter 83, subchapter 4 of Title 10 of the Vermont Statutes Annotated.

III. Lands Not Owned by the Agency of Natural Resources

- A. The only fires that will be considered for reimbursement on lands not owned by the Agency of Natural Resources (ANR) are those fires that threaten ANR owned lands, as determined by the Commissioner; and
- B. The general eligibility requirements set forth in section I. above must be satisfied; and
- C. The Town Forest Fire Warden shall comply with the requirements of 10 V.S.A. §2643(c) for fires on lands not owned by ANR for which the town seeks reimbursement of fire suppression costs; and
- D. The State will reimburse 100% of approved costs of the town in which the fire occurred at the reimbursement rate determined by the Commissioner, that are paid by the town in which the fire occurred, and reported and submitted to the Department by the Town Forest Fire Warden in accordance with Chapter 83, subchapter 4 of Title 10 of the Vermont Statutes Annotated; and
- E. The Commissioner of FPR shall determine if the eligibility requirements are satisfied and whether reimbursement is appropriate for any given forest fire.