

- a. Obtain a certification that trail is in compliance with applicable standards. Certification request shall include:
 - i. How trail qualifies for VTS status
 - ii. Expected number of users
 - iii. Necessity of trails
 - iv. Construction and operation plans
 - v. Planned build out over 5, 10, 15 years (more?)
 - vi. How to connect with other trails in region
 - vii. Consideration of all natural /cultural resources
 - viii. Consideration of all other resources including transportation/safety/etc.
 - ix. Other necessary permit/certification (project review sheet)
 - x. Include shape file for public map
 - b. Notice and opportunity for comment for adjoining. Question: How far do we want the public process to go (interested parties?)
 - c. Every trail within VTS must certify on rolling bases (every 5 yrs?) that the trail ' is in compliance and that no new work necessitating a certification has been performed.
4. Include a *de minimis* standard for minor work on a trail that would not necessitate a certification.
 5. Exemption for portion of trail on state land?
 6. FPR must have enforcement authority.
 7. FPR must maintain a public map (ANR atlas) of all trails and features of each trail (E911 is a good place to start)
 8. Any trail not deemed to be part of the VTS must go through Act 250.

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III. Jurisdiction:

1. Removal of Jurisdiction from Act 250:
 - a. Jurisdiction over trails designated as part of the Vermont Trails System will be exempt from Act 250 jurisdiction, both "original jurisdiction" (development) and from "amendment jurisdiction" (material change).

How: remove Vermont Trails System trails from the definition of Development.² And include language in 6081 (Permits required; exemptions) such as "No permit or permit amendment is required to construct or alter any part of the Vermont Trails System."

2. Transfer of jurisdiction to FPR:
 - a. Will require statutory changes that include a new "certification process" for each trail, trail segment, and trail revision.
 - b. Question: do we require existing VTS trails that have an Act 250 permit to obtain an FPR certification (could be an abbreviated process, but a worthwhile process to get every trail into the system and mapped)
 - i. This could raise some questions. i.e. what about existing Act 250 conditions?
 - c. Background: Vermont Trails System Act (VTSA) is codified at 10 VSA 441-449.
 - d. VTSA currently grants authority to FPR to among other things:

"Develop and oversee the implementation of a Vermont trails plan. **The plan may include guidance on expenditure of funds, standards, provisions for uniform signage, user and landowner educational programs.**"
 - e. Statutory change should create a regulatory authority to:
 - i. create a certification process;
 - ii. create/implement "standards" via rules,
 - iii. issue jurisdictional opinions (or something similar)
 - iv. issue rules (rather than "guidance") to implement and regulate the VTS.³

IV. Trail Regulation at FPR going forward:

1. Create advisory Board or designate Greenways Council
2. Advisory Board to create state wide plan and map for trails.
3. Any new VTS trail or change to existing VTS trail must:

² 10 V.S.A. § 444 (emphasis added).

³ ANR rule making authority under the VTSA is currently limited to the appropriations of funds. "The Agency of Natural Resources shall administer the Fund and adopt rules for its use and all monies appropriated shall be used on State, federal, and municipal lands and on maintenance of trails on public as well as private lands where permission is granted, as follows..." Vt. Stat. Ann. tit. 10, § 446

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- b. Applicants to the Vermont Trails System must have obtained written landowner permission, or a legally binding agreement, from private landowners (10 VSA Section 444) for public use and to maintain the trail, or, in the case of publicly owned lands, a letter of support from the relevant public agency responsible for managing the lands in question.
- c. Applicants should be members of the Vermont Trails and Greenways Council. Visit www.vermonttrailsandgreenways.org to become a member.
- d. The applicant must state who is responsible for managing and maintaining their trail(s) and all future trails and explain the long-term maintenance plan for the trail (i.e., labor, materials, timeline, how it will be funded).
- e. The trail(s) and all future trails managed by the organization shall be consistent with statewide goals, objectives or priorities identified in the Vermont Trails and Greenways Plan.
- f. The trail(s) and all future trails managed by the organization must adhere to water quality and environmental standards as defined in Appendix A. The applicant must provide information on the design and maintenance standards which are or will be used by the managing organization.
- g. The trail(s) and all future trails must have local, regional or statewide significance and must provide a linkage to other trails in an area to add further significance to a trail. When feasible, the trail(s) must connect to a regional or state-wide trail or be part of a regional network of trails. Trails connecting schools, community centers and/or recreation areas are also

The applicant must provide evidence of public support for the organization's ability to manage trails to the Vermont Trail System standards with at least two letters of support.

- i. The applicant must describe how their trail(s) and all future trails will further the education, safety awareness and/or environmental stewardship of public users of the trail.
- j. A detailed map and GIS shapefiles of all trails currently managed by the organization must accompany the application to the Vermont Trails System.
- k. If an organization which has been recognized as part of the Vermont Trail System adds a new trail(s) to its trail network, it shall provide a detailed map and GIS shapefiles of the new trail(s) to the Vermont Trails and Greenways Council and confirm that the new trail meets the eligibility criteria above.

MEMORANDUM

The below draft outline is intended to provide a brief overview of how jurisdiction over Vermont Trail System Trails can be transferred from the Natural Resources Board (Act 250) to the Agency of Natural Resources, Department of Forest Parks and Recreation (FPR). I have also begun to outline what a regulatory structure may look like at FPR, which should include the resource protection, planning, and public notice criteria that we have spoken about.

Please note, this outline is still in its early stages, and at this point it is meant to encourage discussion/brain storming. This outline does not attempt to answer every question or eventuality. A summer study, or something similar, may be a good path to gather broader input and to draft legislation implementing the following.

I. Purpose:

To provide a consistent and predicable certification process for all Vermont Trails System (VTS) trails, which include a robust review process housed within the Department of Forest Parks and Recreation. The current VTS process appears to place emphasis on trail organizations applying for VTS status without significant review of • future trails to be built under the auspices of an organization that has gained VTS status. This proposal anticipates that all VTS trails and changes to VTS trails will go through a certification process at FPR, but would not extend to ordinary maintenance.

2. To provide a mechanism for the State to catalogue, map, regulate and advertise the Vermont Trail System using a statewide platform to encourage the construction of a well-built, well designed trail system that encourages a network or networks of interconnected trails.

II. Vermont Trails System:

Currently (*status quo*): "The Vermont trails system shall consist of those individual trails recognized by the agency of natural resources with the advice of the greenways council. The agency, with the advice of the council, shall establish criteria for recognition of single use and shared use trails." 10 VSA 443

2. Current criteria for membership in the VTS¹:
 - a. The applicant, which can be a non-profit, public or private entity, manages trails for public, recreational use within the boundaries of the state of Vermont.

¹ Vermont Trails System Eligibility Criteria & Application Process (FPR document).