

Forest Partnership and Vermont Trails Alliance Working Concept Proposal
January 31, 2020

The VTA and FP have identified the following shared principles:

- Trails are a valuable part of Vermont's economy and should be maintained and improved in order to provide access to the use and enjoyment of the outdoor areas of Vermont, conserve and use the natural resources of the State for healthful and recreational purposes and provide transportation from one place to another.
- There is a need for an efficient, consistent oversight process for trail organizations that is scaled proportionally to the impact on land and encourages and maintains the generosity of private landowners to open their lands to trail use.
- There should also be clear standards for the oversight process that are transparent and easy to navigate for everyone.
- There should be sufficient education, technical assistance and support resources for trail groups and organizations of all sizes to engage in the trail creation process. This provides an even playing field for groups regardless of their resources. Our trails are maintained largely by a volunteer workforce.
- We support continuing trail creation, use, improvement and stewardship using best management practices and standards.
- There should be a land base accessible for trails on both public and private lands.
- We all want and believe there is strong public support of our Vermont trails. We seek the appropriate level of a public process for trail development.
- We understand that trails can have a wide array of impacts that can be both positive and negative.
- Trail creation and stewardship should be guided in part by our understanding of the impacts relying on the best available science.

The VTA and FP are proposing to build upon and enhance the existing framework of the Vermont Trails System (VTS) created in 1993 (Title 10 Chapter 20), the Vermont Trails and Greenways Council (VTGC), and the role of the Agency of Natural Resources (ANR). There are three key goals:

First, enhance what it means to be a member of the VTS in order to fulfill the public purpose by encouraging the proper development, operation and maintenance of the VTS.

Second, as part of the VTS, develop a technical assistance, consultation and environmental review program overseen by ANR and the VT&GC to guide how new trails and trail segments are located, built and maintained to maximize the benefits and minimize environmental impacts and to do so as an alternative to the Act 250 review process utilizing best management practices (BMPs). This will help ensure that Vermont's enhanced trail network will be developed and stewarded in harmony with the State's invaluable natural resources.

Third, use this as a foundation to increase the economic value of the VTS to the State of Vermont, and all the localities VTS trails serve and connect, by creating a nationally recognized trail system and promoting it to drive both increased use by Vermonters and tourists.

Here is an outline of this alternative program with conceptual agreement between the FP and VTA. This alternative program would be authorized by updating and amending Chapter 10 Title 20: Vermont Trails System, Act 250, and other necessary means such as rulemaking to provide proper guidance and allow for public comment.

Alternative Program:

The program is tiered into three categories with the following common elements:

1. That existing trails in the VTS be exempt from Act 250 as well as new trails as long as covered by the program described below;
2. The program below is intended to ensure that new trails are developed and maintained in a manner that avoids or minimizes potential environmental impacts by utilizing appropriate trail building and maintenance techniques; All new trails will be built and all pre-existing and new trails maintained according to agreed upon BMPs.
3. The program is also intended to avoid any regulatory burden placed on landowners who make their lands available to the public and reinforce VTS members' responsibility for BMP use and compliance for trail stewardship; The program will not create any new personal or regulatory liability for landowners that provide trail access to VTS members.
4. That ancillary elements of new trail projects would be also exempt, such as benches, picnic tables, kiosks, and trailhead parking areas provided they obtain all relevant permits (such as "curb-cut" permits for state or local roads). This should include only those ancillary elements that would not normally trigger Act 250 jurisdiction on their own, such as a large parking area.
5. That the VTS admission process be enhanced, formalized, and include clear commitments from VTS members to adhere to specific and identifiable trail building standards and maintenance BMPs. The BMPs will address a range of important environmental considerations, will be tailored to different types of trails/uses, and require appropriate steps to avoid or mitigate impacts. These BMPs need to be endorsed by ANR and involve input from FP and the public through a notice and comment process;
6. As part of the BMPs develop a checklist of resource areas that new trails need to evaluate to avoid or minimize impacts and encroachment. The list of resource areas should be to the greatest degree possible readily identifiable per existing state information sources (ANR Natural Resource Atlas, ANR maps, consultation with consultants or ANR staff, etc.) and make

the process of the identification of these resource areas easily accessible and affordable to all trail organizations regardless of size.

7. Trail groups would continue to obtain any ANR and local permits that are currently required for new trails (i.e. wetlands, stream alteration/crossings, shoreline encroachment, stormwater, curb cuts etc.).
8. ANR will have the authority to conduct audits to verify that existing and new trails are built and maintained according to the BMPs and other obligations of VTS members.
9. Non-compliance with BMPs can require a need to make improvements up to established standards; removal or closure of a given trail segment from the VTS for continuing non-compliance and be subject to ANR's enforcement authority.
10. There will be an annual meeting process with ANR and each VTS member to review, at a minimum: de minimis activities completed in the prior year; notification projects for the upcoming year; and major projects proposed for the upcoming year.
11. That each entity's membership in the VTS be reviewed at least every five years to make sure VTS trails are being built and maintained as represented by the operating entity and that the operating entity still qualifies for VTS membership.
12. That VTS members update their trail maps annually and submit to the ANR (maps should reflect trails as built to date).
13. That VTS members evaluate the joint use of trails whenever practicable and feasible to avoid redundancies and enhance trail connectivity.
14. That the BMPs be revisited and updated as necessary but at least every five years.

Tier 1 – De Minimis Activities and Projects:

There would be a category of de minimis projects that would not require advanced notice to the ANR but would be certified by the relevant trail group(s) as being in compliance with BMPs as part of an annual update to ANR and include accompanying trail maps. Project examples include: routine maintenance and repair; existing state or town roads; trail upgrades to meet BMPs; trail relocations of short length; and new trail construction of limited length. The ANR would be able to audit compliance with the BMPs.

Tier 2 – Projects with ANR Notification and Consultation:

There will be a category of projects where trail groups would annually submit notifications of proposed new trails to the ANR with information on a form (e.g. location, maps, design, purpose, etc.) with attestation that a project can and would be constructed using BMPs and indicating that a review of the proposed project's location relative to identified resource areas of concern was conducted. Any required ANR permits would be obtained. ANR would provide public notice of the proposed new trails using existing ANR online systems or other potential online mechanisms.

The VTA, FP, ANR and NRB are evaluating the extent of consultation by ANR for new trail proposals based on the notice and information forms and whether there are impacts or encroachments by a proposed new trail on a resource area. One approach could be that ANR will review those notices to ensure they are complete. If a notice: 1) is incomplete or 2) the application or ANR review indicates that a trail will encroach upon or significantly impact a resource area and the ANR does not believe adequate mitigating measures have been proposed, it will notify the VTS member and they will work to address ANR's concerns. We are cognizant of trying to make the best, focused use of ANR resources; create an easy understandable and manageable process recognizing that most trail groups are staffed and/or built by volunteers; and help guide new trail location decisions to avoid or minimize impacts on resource areas. The ANR consultation and the need for ANR resources will be dependent upon the creation and adoption of the BMPs that will underpin all trail building and maintenance activities.

Tier 3 – Major Projects

There will be a third category for large, new trail projects that involve the disturbance of 10 acres or more of land for new trail development. The requirements for this category would be consistent with all other trails and be BMP-driven and require that any necessary ANR permits be obtained. This category will include some additional public process designed to notify and gather input from ANR and the public on a proposed project before it is built to enable

adjustments to the design and location to accommodate such input whenever possible. FP and VTA are considering whether these major projects should be left in the Act 250 process or become part of the alternative program at ANR.

A Sample of Issues Still Under Discussion:

- How to handle amendment jurisdiction and new trail development on land that is already under Act 250 review;
- How to handle trails that are not part of the VTS;
- How to address non-resource issues such as parking, traffic, and waste;
- How to determine the thresholds for each tier of the program;
- How to determine ANR's role for each tier of the program;
- How to determine the appropriate level of public input for each tier of the program;
- How to determine jurisdiction for commercial aspects of trail projects (for example retail buildings associated with a trail network); and
- How to fund the program so that it will be successful and efficient.