

1 S.104

2 Introduced by Senators Parent, Benning, Brock, Collamore, McNeil and
3 Rodgers

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; land use; Act 250; natural resources

7 Statement of purpose of bill as introduced: This bill proposes to promote the
8 goals in the State's Capability and Development Plan while reducing the
9 amount of time and money spent obtaining Act 250 and other State permits by:

- 10 • Creating an enhanced designation that would remove Act 250 jurisdiction
11 within designated centers.
- 12 • Creating a process to subject unique resource areas to Act 250 jurisdiction
13 regardless of whether a project in such area would trigger jurisdiction
14 under existing thresholds.
- 15 • Including impacts on forest blocks and connecting habitat in the review
16 process under Act 250 Criterion 8.
- 17 • Updating Act 250 Criterion 1(D) so that it is consistent with the
18 terminology used in the State's other permitting programs.
- 19 • Defining what kind of evidence is sufficient to rebut permits that create
20 presumptions in Act 250.
- 21 • Clarifying when an Act 250 permit application fee waiver and partial refund
22 may be warranted.

- 1 • Allowing forest-based enterprises flexibility in their hours of operation.
- 2 • Clarifying the circumstances in which a recreational trail must receive an
- 3 Act 250 permit.
- 4 • Exempting transportation projects that are supported, in whole or in part, by
- 5 federal aid from Act 250 review.
- 6 • Updating the definition of development to address accessory on-farm
- 7 businesses.

8 An act relating to various amendments to Act 250

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. FINDINGS

11 The General Assembly finds that:

12 It is the policy of the State to promote the sustainable and economic
13 management of its forests and woodlands to protect long-term forest health,
14 integrity, and productivity and to maintain and conserve forest soil resources,
15 protect water quality, and mitigate the effects of climate change. The
16 protection and conservation of forest resources is achieved in large part
17 through the promotion and protection of sustainable forest management and
18 the forest products economy, which in turn results in environmental and
19 economic benefits to the State. Therefore, it is in the public interest to promote
20 and protect the sustainable management of the State's forests and forest

1 products industry and economy by recognizing unique operational constraints
2 associated with forest-based enterprises and the effect of conserving forest
3 resources attributable to the forest products industry. State regulation of such
4 enterprises shall reflect a proper balance between economic development of
5 forest-based enterprises and responsible land use practices.

6 Sec. 2. 10 V.S.A. § 6001 is amended to read:

7 § 6001. DEFINITIONS

8 ~~It~~ As used in this chapter:

9 * * *

10 (3)(A) “Development” means each of the following:

11 * * *

12 (v) The construction of improvements on a tract of land involving
13 more than 10 acres that is to be used for municipal, county, or State purposes,
14 including Vermont Trails System trails. In computing the amount of land
15 involved, land shall be included that is incident to the use such as lawns,
16 parking areas, roadways, leaching fields, and accessory buildings.

17 * * *

18 (xi) The construction of improvements for commercial, industrial,
19 or residential use in a Unique Resource Value Area, as designated by the
20 Secretary of Natural Resources under 3 V.S.A. § 2825(f).

21 * * *

22 (D) The word “development” does not include:

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(ix) The construction of improvements for transportation projects that are supported, in whole or in part, by federal aid for municipal, county, or State purposes.

(x) The construction of improvements or land uses on a tract of land primarily devoted to farming, as defined in subdivisions (22)(A)–(E) and (H) of this section, and that is subject to the State’s Required Agricultural Practices, provided that:

(I) the improvements or land uses will support an activity that meets the definition of “accessory on-farm business” in 24 V.S.A. § 4412; and

(II) the total area of improvements associated with the accessory on-farm businesses does not exceed three-quarters of an acre.

* * *

~~(6) “Floodway” means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects. “Flood Hazard Area” has the same meaning as in section 752 of this title.~~

~~(7) “Floodway fringe” means an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as determined by the Secretary of Natural Resources with full consideration given~~

1 ~~to upstream impoundments and flood control projects.~~ “River corridor” has
2 the same meaning as in section 752 of this title.

3 * * *

4 (30) “Designated center” means a downtown development district,
5 village center, new town center, growth center, ~~Vermont neighborhood~~, or
6 neighborhood development area designated under 24 V.S.A. chapter 76A.

7 * * *

8 (38) “Enhanced designation” means the process by which a designated
9 center demonstrates that the center has satisfied the requirements of 24 V.S.A.
10 § 2799. The term shall also refer to the resulting status.

11 (39) “Forest-based enterprise” means an enterprise that aggregates forest
12 products from forestry operations and adds value through processing or
13 marketing in the forest products supply chain or directly to consumers through
14 retail sales. “Forest-based enterprise” includes sawmills; veneer mills; pulp
15 mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood;
16 and log and pulp concentration yards. “Forest-based enterprise” does not
17 include facilities that purchase, market, and resell finished goods, such as
18 wood furniture, wood pellets, and milled lumber, without first receiving forest
19 products from forestry operations.

20 (40) “Forest product” means logs, pulpwood, veneer wood, bolt wood,
21 wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and
22 bark.

1 equivalent to \$0.10 per \$1,000.00 of total estimated construction costs in
2 current dollars ~~in addition to the fee established in subdivision (1) of this~~
3 ~~subsection for any portion of the project seeking construction approval~~ shall be
4 due for all other portions of the proposed project. If construction approval is
5 sought in future permit applications, the fee established in subdivision (1) of
6 this subsection shall be due, except to the extent that it is waived pursuant to
7 subsection (f) of this section.

8 * * *

9 (f)(1) ~~In the event that an application involves a project or project impacts~~
10 ~~that previously have been reviewed, the~~ An applicant may petition in writing
11 ~~the Chair of the District Commission to waive all or part of the application fee.~~
12 ~~If an application fee was paid previously in accordance with subdivisions~~
13 ~~(a)(1) through (4) of this section, the Chair may waive all or part of the fee for~~
14 ~~a new or revised project if the Chair finds that the impacts of the project have~~
15 ~~been reviewed in an applicable master permit application, or that the project is~~
16 ~~not significantly altered from a project previously reviewed, or that there will~~
17 ~~be substantial savings in the review process due to the scope of review of the~~
18 ~~previous applications.~~ In reviewing this petition, the District Commission shall
19 consider the following:

20 (A) Whether a portion of the project's impacts have been reviewed
21 by it, the Natural Resources Board, or the District Coordinator in a previous
22 permit.

1 (B) Whether the project is being reviewed as a major application,
2 minor application, or administrative amendment.

3 (C) Whether the applicant relies on any presumptions permitted
4 under subsection 6086(d) of this title and has, at the time of the permit
5 application, already obtained the permits necessary to trigger such
6 presumptions. If a presumption is rebutted, the Commission may require the
7 applicant to pay the previously waived fee.

8 (D) Whether the applicant has engaged in any preapplication
9 planning with the district coordinator that will result in a decrease in the
10 amount of time the District Commission will have to consider the application.

11 (2) The District Commission shall issue a written decision in response to
12 any application for a fee waiver. The written decision shall address each of the
13 factors in subdivision (1) of this subsection.

14 (3) District Commission decisions regarding application fee waivers
15 may be appealed to the Natural Resources Board in accordance with Board
16 rules.

17 (4) If the classification of an application is changed from an
18 administrative amendment or minor application to a major application, the
19 Commission may require the applicant to pay the previously waived fee.

20 (g) A Commission or the Natural Resources Board may require any
21 permittee to file a certification of actual construction costs and may direct the
22 payment of a supplemental fee in the event that an application understated a

1 project's construction costs. Failure to file a certification or to pay a
2 supplemental fee shall be grounds for permit revocation. If the actual
3 construction costs are less than the estimated construction costs upon which the
4 original permit fee was calculated, a written request for a refund of the
5 difference may be submitted to the District Commission within 90 days after
6 the date an applicant files a certification.

7 * * *

8 Sec. 5. 10 V.S.A. § 6086 is amended to read:

9 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

10 (a) Criteria. Before granting a permit, the District Commission shall find
11 that the subdivision or development:

12 * * *

13 (D) ~~Floodways~~ Floodplains. A permit will be granted whenever it is
14 demonstrated by the applicant that, in addition to all other applicable criteria:

15 (i) the development or subdivision of lands within a ~~floodway~~
16 flood hazard area or river corridor will not restrict or divert the flow of flood
17 waters, cause or contribute to fluvial erosion, and will not endanger the health,
18 safety, and welfare of the public or of riparian owners during flooding; ~~and~~

19 ~~(ii) the development or subdivision of lands within a floodway~~
20 ~~fringe will not significantly increase the peak discharge of the river or stream~~
21 ~~within or downstream from the area of development and endanger the health,~~
22 ~~safety, or welfare of the public or riparian owners during flooding.~~

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(8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, forest blocks and connecting habitat, historic sites, or rare and irreplaceable natural areas.

(c) Permit conditions.

(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and ~~which~~ that are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to ~~insure~~ ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) District Commissions shall only impose permit conditions that restrict a forest-based enterprise's hours of operations when the absence of such restrictions would result in undue adverse impact under subdivision (a)(1), (5), or (8) of this section. In making a determination of whether an undue adverse impact exists, the District Commission shall consider the benefits to forests and forest resources resulting from the forest-based enterprise and the impact to the operation of the forest-based enterprise that

1 would result from a restriction on hours of operation and shall impose only the
2 minimum restriction necessary to address the undue adverse impact.

3 (3) Permits issued for a forest-based enterprise shall allow the enterprise
4 to ship and receive delivery of forest products when ground and road
5 conditions are appropriate for the harvesting operations that supply such
6 products, including delivery from the harvesting site to the enterprise during
7 hours outside normal business hours, including nights, weekends, and holidays
8 for a minimum of 60 days per year.

9 (4) Permits issued for a forest-based enterprise that produces wood
10 chips, pellets, cord wood, and other fuel wood shall authorize the delivery from
11 the enterprise of such products to the end user during hours outside normal
12 business hours, including nights, weekends, and holidays from October 1
13 through April 30 of each year.

14 (5) Forest-based enterprises holding a permit may request the District
15 Commission amend existing permit conditions related to hours of operation
16 and seasonal restrictions under this subsection. Requests for condition
17 amendments under this subsection shall not be subject to Act 250 Rule 34E.

18 (d) State and local permits; presumptions.

19 (1) State permits.

20 (A) ~~The Natural Resources Board may by rule~~ A District
21 Commission shall allow the acceptance of a permit or permits ~~or approval~~ of
22 any State agency with respect to subdivisions (a)(1) through (5) of this section

1 ~~or~~ in lieu of evidence by the applicant. The presumption established by this
2 subdivision (1) shall only apply to the issues addressed as a part of the terms of
3 the permit.

4 (B) In the case of permits issued by the Agency of Natural
5 Resources, technical determinations of the Agency shall be accorded
6 substantial deference by the District Commissions.

7 (C) The acceptance of such permit or permits shall create a
8 presumption that the application is not detrimental to the public health and
9 welfare with respect to the specific requirement for which it is accepted.

10 (2) Municipal permits.

11 (A) The Natural Resources Board may by rule allow a permit or
12 permits of a specified municipal government with respect to subdivisions
13 (a)(1) through (7) and (9) and (10) of this section, or a combination of such
14 permits or approvals, in lieu of evidence by the applicant. The presumption
15 established by this subdivision shall only apply to the issues addressed as a
16 part of the terms of the permit.

17 (B) A District Commission, in accordance with rules adopted by the
18 Board, shall accept determinations issued by a development review board
19 under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review
20 of municipal impacts.

21 (C) The acceptance of such approval, positive determinations, permit,
22 or permits shall create a presumption that the application is not detrimental to

1 the public health and welfare with respect to the specific requirement for which
2 it is accepted. ~~In the case of approvals and permits issued by the Agency of~~
3 ~~Natural Resources, technical determinations of the Agency shall be accorded~~
4 ~~substantial deference by the Commissions.~~ The acceptance of negative
5 determinations issued by a development review board under the provisions of
6 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts
7 shall create a presumption that the application is detrimental to the public
8 health and welfare with respect to the specific requirement for which it is
9 accepted. Any determinations, positive or negative, under the provisions of
10 24 V.S.A. § 4420 shall create presumptions only to the extent that the impacts
11 under the criteria are limited to the municipality issuing the decision. ~~Such a~~
12 ~~rule may be revoked or amended pursuant to the procedures set forth in 3~~
13 ~~V.S.A., chapter 25, the Vermont Administrative Procedure Act.~~

14 (3) Rebutting Presumptions.

15 (A) Except as provided in subdivision (B) of this subdivision (3),
16 permits may be rebutted by evidence that is relevant and admissible.

17 (B) With respect to permits issued by a State agency that provides
18 notice, the ability to comment, and a right to appeal, prior to accepting
19 evidence to rebut a permit the Commission shall determine that the evidence:

20 (i) was not presented to the State agency issuing the permit that
21 resulted in the presumption;

1 value of 27 acres of land if a deposit of an off-site mitigation fee into the
2 Vermont Housing and Conservation Trust Fund is required. The mitigation
3 ratio shall be 1:1.

4 (B) Applicants shall certify the annual production of the facility
5 through a certification statement included with the application.

6 * * *

7 Sec. 7. 10 V.S.A. § 8503(b) is amended to read:

8 (b) This chapter shall govern:

9 (1) all appeals from an act or decision of a District Commission under
10 chapter 151 of this title, excluding appeals of application fee refund and waiver
11 requests;

12 * * *

13 Sec. 8. 24 V.S.A. § 2799 is added to read:

14 § 2799. ENHANCED DESIGNATION

15 (a) Purposes. The purposes of this section are to:

16 (1) encourage a municipality to plan and regulate for compact patterns
17 of development; and

18 (2) encourage development that is consistent with Vermont's land use
19 goals and smart growth principles by removing Act 250 jurisdiction from
20 enhanced designated downtowns, new town centers, growth centers,
21 neighborhood development areas, and village centers.

1 (b) Application and approval. A municipality, by resolution of its
2 legislative body, may apply to the State Board for enhanced designation for
3 any designated downtown development district, designated new town center,
4 designated growth center, designated neighborhood development area, or
5 designated village center. The State Board shall issue an affirmative
6 determination on finding that the municipality meets the requirements of
7 subsection (c) of this section.

8 (c) Enhanced designation requirements.

9 (1) To obtain an enhanced designation under this section, a municipality
10 must demonstrate that it has each of the following:

11 (A) an approved designated downtown development district,
12 designated new town center, designated growth center, designated
13 neighborhood development area, or designated village center;

14 (B) a municipal plan that is approved in accordance with section
15 4350 of this title;

16 (C) municipal flood hazard planning, applicable to the entire
17 municipality, in accordance with section 4382(12) of this title and the
18 guidelines issued by the Department pursuant to section 2792(d) of this title;

19 (D) flood hazard and river corridor bylaws, applicable to the entire
20 municipality, that are consistent with the standards established pursuant to
21 10 V.S.A § 755(b) (flood hazard) and §1428(b) (river corridor);

1 (E) a capital budget and program pursuant to section 4430 of this title
2 that make substantial investments in the ongoing development of the
3 designated area, are consistent with the plan's implementation program, and
4 are consistent with the smart growth principles defined in section 2791(13) of
5 this title;

6 (F) municipal bylaws that do not include broad exemptions excluding
7 significant private or public land development from requiring a municipal land
8 use permit;

9 (2) Designated downtown development districts seeking enhanced
10 designation shall, in addition to the requirements of subsections (c)(1) through
11 (6) of this section, also have:

12 (A) urban form bylaws for the enhanced designated center that
13 further the smart growth principles of this chapter and adequately regulate the
14 physical form and scale of development and conform to the guidelines
15 established by the Department; and

16 (B) historic preservation bylaws for established design review
17 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
18 § 4414(1)(E) and (F) for the enhanced designated center that meet State
19 historic preservation guidelines issued by the Department pursuant to section
20 2792(d) of this title.

21 (3) Designated new town centers, growth centers, or neighborhood
22 development areas seeking enhanced designation shall have, in addition to the

1 requirements of subdivisions (c)(1) through (6) of this section, wildlife habitat
2 planning bylaws for the enhanced designated center that comply with standards
3 established by the Department of Fish and Wildlife.

4 (4) Designated village centers seeking enhanced designation shall have,
5 in addition to the requirements of subsections (c)(1) through (6) of this section:

6 (A) Urban form bylaws for the enhanced designated center that
7 further the smart growth principles of this chapter and regulate the physical
8 form and scale of development and conform to the guidelines established by
9 the Department.

10 (B) Historic preservation bylaws for established design review
11 districts, historic districts, or historic landmarks pursuant to subdivisions
12 4414(1)(E) and (F) of this title for the enhanced designated center that meet
13 State historic preservation guidelines issued by the Department pursuant to
14 subsection 2792(d) of this title.

15 (C) Permitted water and wastewater systems with the capacity to
16 support additional development within the enhanced designated center. The
17 municipality shall have adopted consistent policies, by municipal plan and
18 ordinance, on the allocation, connection, and extension of water and
19 wastewater lines that include a defined service area to support the enhanced
20 designated center.

21 (D) Adequate municipal staff to support coordinated comprehensive
22 and capital planning, development review, and zoning administration.

1 (5) If any party entitled to notice under subdivision (d)(4)(A) of this
2 section or any resident of the municipality raises concerns about the
3 municipality's compliance with the requirements for the underlying
4 designation, those concerns must be addressed as part of the municipality's
5 application.

6 (d) Process for issuing determinations of enhanced designation.

7 (1) A preapplication meeting shall be held with Department staff to
8 review the program requirements. The meeting shall be held in the
9 municipality unless another location is agreed to by the municipality.

10 (2) An application by the municipality must include the information and
11 analysis required by the Department's guidelines established pursuant to
12 section 2792 of this title on how to meet the requirements of subsection (c) of
13 this section.

14 (3) The Department shall establish a procedure for submission of a draft
15 application that involves review and comment by all the parties to be noticed in
16 subdivision (4)(A) of this subsection and shall issue a preapplication memo
17 incorporating the comments to the applicant after receipt of a draft preliminary
18 application.

19 (4) After receipt of a complete final application, the State Board shall
20 convene a public hearing in the municipality to consider whether to issue a
21 determination of enhanced designation under this section.

22 (A) Notice.

1 (i) At least 35 days in advance of the Board’s meeting, the
2 Department shall provide notice to the municipality and post it on the
3 Agency’s website.

4 (ii) The municipality shall publish notice of the meeting at least
5 30 days in advance of the Board’s meeting in a newspaper of general
6 circulation in the municipality, and deliver physically or electronically, with
7 proof of receipt or by certified mail, return receipt requested to the Agency of
8 Natural Resources, the Natural Resources Board, the Division for Historic
9 Preservation, the Agency of Agriculture, Food and Markets, the Agency of
10 Transportation, the regional planning commission, the regional development
11 corporations, and the entities providing educational, police, and fire services to
12 the municipality.

13 (iii) The notice shall also be posted by the municipality in or near
14 the municipal clerk’s office and in at least two other designated public places
15 in the municipality, and on the websites of the municipality and the Agency of
16 Commerce and Community Development.

17 (iv) The municipality shall also certify in writing that the notice
18 required by this subsection (d) has been published, delivered, and posted
19 within the specified time.

20 (B) No defect in the form or substance of any requirements of this
21 subsection (d) shall invalidate the action of the State Board where reasonable
22 efforts are made to provide adequate posting and notice. However, the action

1 shall be invalid when the defective posting or notice was materially misleading
2 in content. If an action is ruled to be invalid by the Superior Court or by the
3 State Board itself, the Department shall provide and the municipality shall
4 issue new posting and notice, and the State Board shall hold a new hearing and
5 take a new action.

6 (5) The State Board may recess the proceedings on any application
7 pending submission of additional information. The State Board shall close the
8 proceedings promptly after all parties have submitted the requested
9 information.

10 (6) The State Board shall issue its determination in writing. The
11 determination shall include explicit findings on each of the requirements in
12 subsection (c) of this section.

13 (e) Review of enhanced designation status.

14 (1) Length of designation. Initial determination of enhanced status may
15 be made at any time. Thereafter, review of an enhanced designation shall be
16 concurrent with the next periodic review of the underlying designated
17 downtown, village center, new town center, growth center, or neighborhood
18 development area.

19 (2) The State Board, on its motion, may review compliance with the
20 enhanced designation requirements at more frequent intervals.

1 (3) If at any time the State Board determines that the enhanced
2 designated area no longer meets the standards for an enhanced designation, it
3 shall take one of the following actions:

4 (A) require corrective action within a reasonable time frame; or

5 (B) terminate the enhanced designation.

6 (4) If the underlying designation is terminated, the enhanced designation
7 also shall terminate.

8 (f) Appeal.

9 (1) An interested person may appeal any act or decision of the State
10 Board under this section to the Natural Resources Board within 30 days
11 following the act or decision.

12 (2) As used in this section, an “interested person” means any one of the
13 following:

14 (A) A person owning title to or occupying property within or abutting
15 the designated center.

16 (B) The municipality making the application or a municipality that
17 adjoins the municipality making the application.

18 (C) The regional planning commission for the region that includes
19 the designated center or a regional planning commission whose region adjoins
20 the municipality in which the designated center is located.

21 (D) Any 20 persons who, by signed petition, allege that the decision
22 is not in accord with the requirements of this chapter, and who own or occupy

1 real property located within the municipality in which the designated center is
2 located or an adjoining municipality. The petition must designate one person
3 to serve as the representative of the petitioners regarding all matters related to
4 the appeal. The designated representative must have participated in the public
5 hearing described in subdivision (d)(4) of this section.

6 Sec. 9. 3 V.S.A. § 2825 is amended to read:

7 § 2825. DUTIES OF THE SECRETARY

8 * * *

9 (f) Designation of unique resource value areas.

10 (1) The Secretary may designate, by rule, a geographic area as a unique
11 resource value area (URVA) or determine whether an existing designation
12 should be amended or repealed. A person may file a petition to designate an
13 UVRA and the Secretary shall make a decision on that petition consistent with
14 3 V.S.A. § 806. When designating an area as an UVRA, the Secretary shall
15 evaluate the ecological significance of the area, the importance of the area for
16 habitat connectivity, the importance of the area for high-value forest blocks,
17 the importance of these areas for contiguous blocks of primary agricultural
18 soils, the importance and impacts of the designation on Vermont's farm and
19 forest products economy, and the scenic values associated with these areas.
20 The Secretary may adopt rules to provide additional guidance to how a
21 designation is evaluated and the additional resource values to be protected by

1 the designation. The Secretary shall hold a public hearing convenient to the
2 geographic area subject to the rulemaking.

3 (2) Prior to filing a proposed rule with the Secretary of State, the
4 Secretary shall conduct a pre-rulemaking stakeholder process involving, at a
5 minimum, the owner of record of any land on which an URVA is proposed for
6 designation. As a part of this process, the Secretary shall notify stakeholders
7 of the basis of the rulemaking and the effect of the rulemaking on future
8 development in that area.

9 (3) The Secretary shall not designate an URVA in a designated
10 downtown, village center, neighborhood development area, growth center, or
11 new town center designated under 24 V.S.A. chapter 76A.

12 (4) Designation as an URVA shall not affect the terms of any permit
13 issued prior to the designation of the area as a URVA.

14 Sec. 10. RECREATIONAL TRAILS

15 (a) Findings. The General Assembly finds that it is the policy of the State
16 to promote the sustainable development of recreational trails that are consistent
17 with Vermont's land use goals. Therefore, it is in the public interest to define
18 "recreational trail" and the requisite jurisdictional triggers for both
19 "recreational trails" and "Vermont Trail System trails."

20 (b) Jurisdiction. Jurisdiction over Vermont Trails System trails shall be
21 established by the rules of the Natural Resources Board. Until those rules are
22 adopted, jurisdiction over Vermont Trails System trails shall be established

1 pursuant to 10 V.S.A. § 6001(3)(A)(v). The rules adopted shall also include a
2 procedure to release jurisdiction over recreational trails and Vermont Trails
3 System trails, provided, at a minimum:

4 (1) the permittee is in compliance with the permit;

5 (2) the trail corridor has been reclaimed;

6 (3) there is no lasting impact or infrastructure within the trail corridor;

7 and

8 (4) the release of jurisdiction over recreational trails and Vermont Trails

9 System trails shall have no effect on any other State or federal permit,
10 including permits issued pursuant to this chapter, that may regulate the land, or
11 a portion of the land, being released from jurisdiction.

12 Sec. 11. EFFECTIVE DATE

13 This act shall take effect on passage.