

A stylized, light blue illustration of a plant with several leaves and a cluster of small, round buds or flowers, positioned on the left side of the slide.

HOW OTHER STATES IN NEW ENGLAND TREAT PRIVATELY OWNED WILDLAND/OPEN SPACE THROUGH USE VALUE APPRAISAL

**Jamey Fidel
General Counsel/
Forest and Wildlife Program Director
Vermont Natural Resources Council**

Vermont Current Use Program

Title 32 : Taxation And Finance

Chapter 124 : Agricultural And Forest Lands

Subchapter 001 : Agricultural And Managed Forest Land Use Value Program

§ 3750. Statutory purposes

The statutory purpose of the Vermont Use Value Appraisal Program in chapter 124 of this title is to preserve the working landscape and the rural character of Vermont. (Added 2013, No. 200 (Adj. Sess.), § 14.)

Vermont Current Use Program

Title 32 : Taxation And Finance

Chapter 124 : Agricultural And Forest Lands

Subchapter 001 : Agricultural And Managed Forest Land Use Value Program

§ 3751. Statement of purpose

The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural and forestland; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety, and welfare. (Added 1977, No. 236 (Adj. Sess.), § 1.)

Vermont Current Use Program

Current Use (Use Value Appraisal) categories:

- Agricultural Land
- Forest Land
- Conservation Land
- Farm Buildings

"Use value appraisal" means, with respect to land, the price per acre which the land would command if it were required to remain henceforth in agriculture or forest use, as determined in accordance with the terms and provisions of Subchapter 001 - Agricultural And Managed Forest Land Use Value Program. With respect to farm buildings, "use value appraisal" means zero percent of fair market value.

Vermont Current Use Program

Forest Land

- At least 25 contiguous acres of forest land managed according to state standards and an approved forest management plan
- In all cases, timber management must be practiced on at least 20 acres.
- Taxed at use value

“Managed forestland” means:

(A) any land, exclusive of any house site, that is at least 25 acres in size and that is under active long-term forest management for the purpose of growing and harvesting repeated forest crops in accordance with minimum acceptable standards for forest management. Such land may include eligible ecologically significant treatment areas in accordance with minimum acceptable standards for forest management and as approved by the Commissioner.

Vermont Current Use Program

Conservation Land (A Subset of “Managed Forestland”)

(B) Any land, exclusive of any house site which is certified under [10 V.S.A § 6306\(b\)](#), is owned by an organization that was certified by the commissioner of taxes as a qualified organization as defined in [10 V.S.A. § 6301](#) and for at least five years preceding its certification was determined by the internal revenue service to qualify as a Section 501(c)(3) organization which is not a private foundation as defined in Section 509(a) of the Internal Revenue Code, and is under active conservation management in accord with standards established by the commissioner of forests, parks and recreation.

Taxed at use value

Title 10 : Conservation And Development

Chapter 155 : Acquisition Of Interests In Land By Public Agencies

§ 6301a. Definitions

- "Qualified organization" means:
- (A) an organization qualifying under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which is not a private foundation as defined in Section 509(a) of the Internal Revenue Code, and which has been certified by the Commissioner of Taxes as being principally engaged in the preservation of undeveloped land for the purposes expressed in section 6301 of this title.
- (B) an organization qualifying under Section 501(c)(2) of the Internal Revenue Code of 1986, as amended, provided such organization is controlled exclusively by an organization or organizations described in subdivision (2)(A) of this section.

Vermont Current Use Program

Forest Land (taxed at the Forestry rate) –

Managed actively for timber by existing USFS silvicultural guides:

Forested areas on soils with site class I, II or III.

Managed actively for timber but with latitude to be managed by guidelines other than USFS silvicultural guides:

Significant Wildlife Habitat

Special Places and Sensitive Sites

Not necessarily managed for timber (but requiring protective/conservation management):

Ecologically Significant Treatment Areas (ESTAs)

o Natural Communities of Statewide Significance

o Rare, Threatened, and Endangered Species

o Riparian Areas

o Vernal Pools with Amphibian Breeding Habitat

o Forested Wetlands

o Old Forests

Not managed actively for timber, but requiring protective/conservation management plan:

Miscellaneous – bona fide protective purposes for areas up to one acre, by County Forester approval.

Not managed actively for timber, needing only to be substantiated and mapped:

Non-Productive Forest Land – with no cap but limited to areas on soils of site class IV (not capable of producing at least 20 cubic feet of wood per acre per year).

Vermont Current Use Program

Agricultural Land

- At least 25 contiguous acres in active agricultural use; or smaller parcels which generate at least \$2,000 annually from the sale of farm crops, or actively used agricultural land owned by or leased to a farmer
- Taxed at use value

Farm Buildings

- Eligible farm buildings include all farm buildings and other farm improvements which are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a housesite adjoining enrolled land. A dwelling is not eligible as farm buildings unless it has been in use during the preceding tax year exclusively to house one or more farm employees and their families, as a nonmonetary benefit of the farm employment.
- Eligible farm buildings are exempt from all property taxes.

Vermont Current Use Program

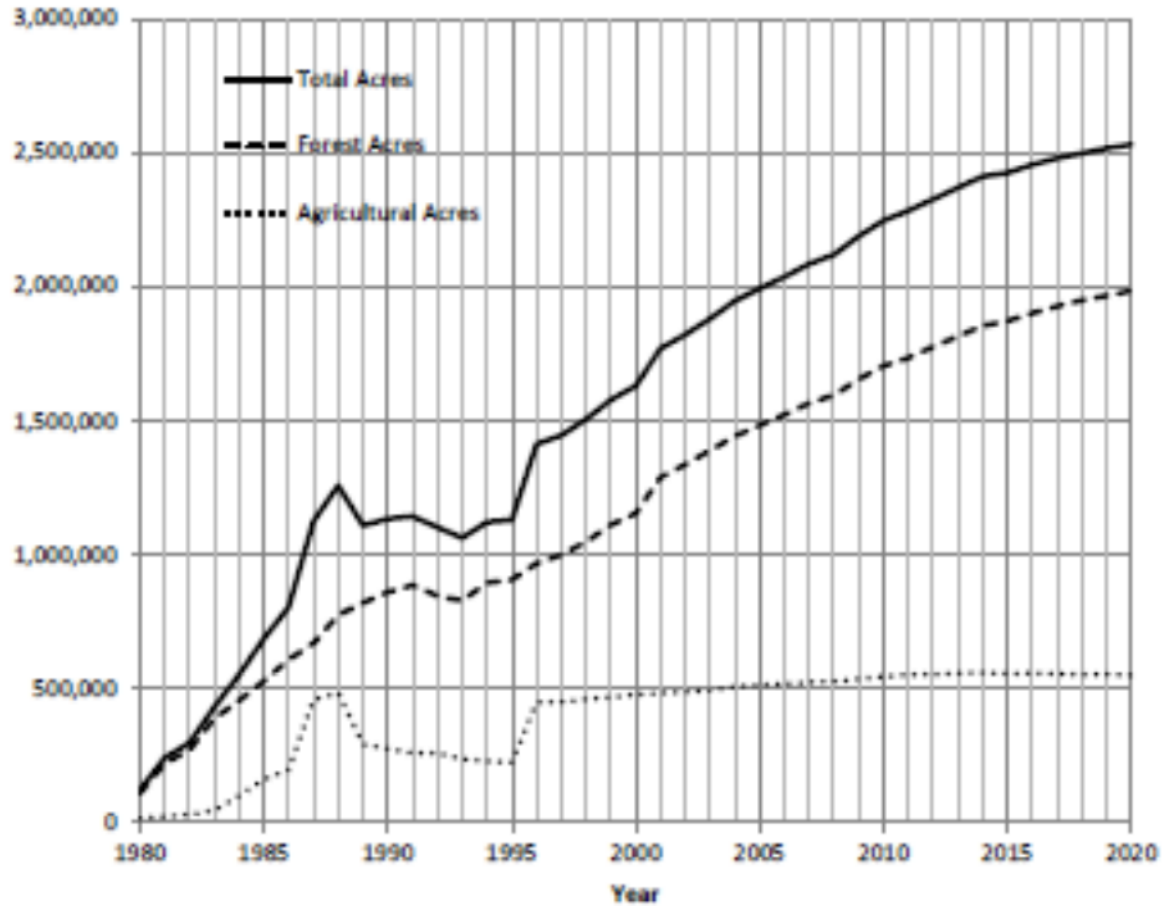
2020 Use Values

The use values are set by the Current Use Advisory Board. The Board's criteria and recommended values may reflect the class, type, grade, and location of the land, together with its productive capacity and income producing capability of agricultural and forestland.

Property Type	Amount
Agricultural Land	\$382/acre
Forest Land & Conservation Land	\$151/acre
Forest Land & Conservation Land Greater than one mile from a Class 1, 2, or 3 Road	\$113/acre

Vermont Current Use Program

Figure 1. Annual Current Use Enrollment 1980-2020



New Hampshire Current Use Program

- Current Use categories:
 - Forest Land
 - Farm Land
 - Wetlands
 - Unproductive Land

Forest land shall be one of the following:

(1) A tract of undeveloped land (a minimum of 10 acres) actively devoted to, or capable of, growing trees of any age including the production or enhancement of one the following:

- a. Forest products;
- b. Maple sap;
- c. Naturally seeded christmas trees; or
- d. Wildlife or wildlife habitat; or

(2) A certified tree farm

New Hampshire Current Use Program

April 1, 2020 – March 31, 2021
Current Use Assessment Ranges

FARMLAND	\$25 - \$425 per acre	*****
FOREST LAND	Forest Land WITHOUT Documented Stewardship	Forest Land WITH Documented Stewardship
White Pine	\$118 - \$176 per acre	\$71 - \$106 per acre
Hardwood	\$57 - \$86 per acre	\$34 - \$52 per acre
All Other (<i>Including Naturally Seeded Christmas Trees</i>)	\$38 - \$57 per acre	\$23 - \$34 per acre
UNPRODUCTIVE LAND	\$23 per acre	\$23 per acre
WETLAND	\$23 per acre	\$23 per acre

New Hampshire Current Use Program

E. 20% Recreational Adjustment.

If a landowner decides not to post, and opens the property to public use without an entrance fee for 12 months a year, the land is entitled to a 20% reduction in the current use assessment of the acres opened to public recreational use. To receive the 20% recreation adjustment, the landowner must allow all of the following activities:

Hunting	Skiing	Fishing
Snowshoeing	Hiking	Nature Observation

Maine Current Use Program

- Current Use categories:
 - Farmland
 - Open Space
 - Tree Growth
 - Working Waterfront
- There is no minimum acreage requirement with this program except for Tree Growth which has a min. of 10 acres for commercial harvesting.
- The parcel must be preserved or restricted in use to provide a public benefit. Benefits recognized include:
 - public recreation;
 - scenic resources;
 - game management; and
 - wildlife habitat.

Maine Current Use Program

- The municipal assessor is responsible for determining the value placed on open space land.
- If an assessor is unable to determine the value of a parcel of open space land, the assessor may use the alternative valuation method. Using this method, the assessor reduces the fair market value of an open space land parcel by the cumulative percentage reduction for which the land is eligible according to certain categories. Those categories are as follows:
 - Ordinary Open Space - 20% reduction
 - Permanently Protected - 30% reduction
 - Forever Wild - 20% (cannot be combined with Managed Forest)
 - Public Access - 25% reduction
 - Managed Forest - 10% reduction (cannot be combined with Forever Wild)

If the property meets all of the above requirements, the owner would see a cumulative reduction of up to 95% on the classified land.

Maine Current Use Program

Forever wild open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because it is permanently protected and subject to restrictions or committed to uses by a nonprofit entity that ensure that in the future the natural resources on that protected property will remain substantially unaltered, except for:

- (1) Fishing or hunting;
- (2) Harvesting shellfish in the intertidal zone;
- (3) Prevention of the spread of fires or disease; or
- (4) Providing opportunities for low-impact outdoor recreation, nature observation and study.

Massachusetts Current Use Program

- Current Use categories:
 - Forestry (10 acre min)
 - Agriculture (10 acre min)
 - Open Space and Recreation (5 acre min)
- The Open Space and Recreation Category - Passive or recreational use (forest management optional)
- Land mostly natural, wild, or open, or used for an approved recreational use.
- 75% reduction of assessed value
(versus being based on the market value of the forest products the land is capable of producing set annually by Farm Land Advisory Committee).

Massachusetts Current Use Program

West of the Connecticut River:

Property 1:

Williamsburg MA

FY 2014 Tax Rate \$17.37

Full market value – \$33,900 or about \$850/acre

40 acres of backland -
no road frontage or legal right-of-way

Ch61/Ch61A Using Forest Land Valuation	Tax Bill under Ch59	Ch61B Using 25% Valuation
$\$71(\text{per ac.}) * 40 \text{ ac.} = 2,840$	$\$33,900/1000 = 33.9 \text{ per thousand}$	$\$33,900 * .25 = 8475$
$2,840/1000 = 2.840 \text{ per thousand}$	$33.9 * 17.37 \text{ (tax rate)} =$	$8475/1000 = 8.475 \text{ per thousand}$
$2.840 * 17.37 \text{ (tax rate)} =$		$8.475 * 17.37 \text{ (tax rate)} =$
\$49.33 Tax	\$588.84 Tax	\$147.21 Tax

Property 2:

Williamsburg MA

FY 2014 Tax Rate \$17.37

Full market value -- \$106,300

10 acres with
significant road frontage

Ch61/Ch61A Using Forest Land Valuation	Tax Bill under Ch59	Ch61B Using 25% Valuation
$\$71(\text{per ac.}) * 10 \text{ ac.} = 710$	$\$106,300/1000 = 106.3 \text{ per thousand}$	$\$106,300 * .25 = 26,575$
$710/1000 = .71 \text{ per thousand}$	$106.3 * 17.37 \text{ (tax rate)} =$	$26,575/1000 = 26.575 \text{ per thousand}$
$.71 * 17.37 \text{ (tax rate)} =$		$26.575 * 17.37 \text{ (tax rate)} =$
\$12.59 Tax	\$1,846.43 Tax	\$461.61 Tax

Connecticut Current Use Program

- Current Use categories:
 - Farmland
 - Forest Land
 - Open Space
 - Maritime Heritage Land

Forestland Category:

“Forest land” means any tract or tracts of land aggregating twenty-five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester.

- Minimum of 25 acres
- Minimum growth-State Forester determines if growth and quantity constitute the proper forest condition.
- Management Plan - A base map of the forest land proposed for designation and a short narrative must be prepared by a forester

Connecticut Current Use Program

Open Space Category:

Available for land that does not meet the farmland or forest land categories.

“Open space land” means any area of land, including forest land, land designated as wetland and not excluding farm land, the preservation or restriction of the use of which would:

- (A) maintain and enhance the conservation of natural or scenic resources,
- (B) protect natural streams or water supply,
- (C) promote conservation of soils, wetlands, beaches or tidal marshes,
- (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces,
- (E) enhance public recreation opportunities,
- (F) preserve historic sites, or
- (G) promote orderly urban or suburban development.

Connecticut Current Use Program

Open Space Category:

- **The planning commission of any municipality in preparing a plan of conservation and development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality.**
- **Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.**
- **An owner of land included in any area designated as open space land upon any plan as finally adopted may apply for its classification as open space land on any grand list of a municipality.**
- Assessors value open space based on its current use, but no less than farmland.

Rhode Island Current Use Program

- Current Use categories:
 - Farm
 - Forest
 - Open Space

Forestland Category:

- To be eligible for forestland classification the parcel must be ten acres or more bearing a dense growth of trees, including young regenerating forest, which has been established either through natural regeneration or planting.
- The forest must be actively managed in accordance with the provisions of a written forest stewardship plan for the purpose of enhancing forest resources.
- The plan must be prepared by a qualified forester in consultation with the landowner.

Rhode Island Current Use Program

Open Space Category:

Open Space is defined as undeveloped land (including farm or forestland) in tracts of ten (10) acres or larger (excluding the house site) where undeveloped land serves to enhance agricultural values, or land in its natural state that conserves forests, enhances wildlife habitat, or protects ecosystem health.

This includes:

- Tracts of any size that are designated as open space land on the comprehensive community plan.
- Tracts of any size that have conservation restrictions or easements in full force.

A Farm, Forest and Open Space Valuation subcommittee determines the value of undeveloped land to be enrolled in the Program. The Committee develops the methodology and values for assessment of land for property taxation on the basis of its current use for farm, forest and open space lands.

Themes:

- Other states in New England allow for open space or wildland management as part of their current use programs.
- The assessed value of open space or wildland may not be as beneficial as other options, such as working forests, but some states base it on “current use.”
- Most states require open space or wildland management to be consistent with defined public values/ management goals or community/municipal planning for conservation.
- Some states recognize the value of permanent conservation of land, and even incentivize it through their current use program.

Policy Proposal:

- Expand the Conservation Land category to allow the enrollment of land owned by a qualified organization principally engaged in the preservation of undeveloped land, or forever wild conservation easements held by a qualified organization principally engaged in the preservation of undeveloped land.
- This would incentivize the enrollment of permanently conserved forestland that is managed as forever wild, but is subject to an easement with an organization that is already qualified to enroll land in the Conservation Land category.
- Currently, land that is privately owned and permanently conserved through a conservation easement can be enrolled in the Current Use Program. This helps landowners manage property taxes and the carrying cost of conserved land, but this is limited to enrollment in the forestry management category.
- For those landowners who take the ultimate step of conserving their land with an easement as forever wild, this would allow enrollment in the program, and give them equitable treatment in helping to manage the carrying cost of their land.

Considerations:

- This would not impact the current structure of the program, or require an easy out option for anyone enrolled. It would provide a new incentive for a subset of landowners currently not enrolled in the Program.
- The easements that could be enrolled in the Conservation Land category could be designed to meet certain public benefit requirements, and be subject to a management plan that addresses management issues related to conserved land.