

Sec. 1. 10 V.S.A. § 442 is amended to read:

§ 442. DEFINITIONS

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(3) "Trails" means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails shall include all infrastructure incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage. Trails shall not include any trail accessed primarily by a mechanical lift. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be the operation of a motor vehicle. As used in this subdivision, "motor vehicle" shall not include all-terrain vehicles or snowmobiles.

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Sec. 2. 10 V.S.A. chapter 20A is added to read:

CHAPTER 20A. VERMONT TRAIL CERTIFICATION PROGRAM

§ 465. DEFINITIONS

As used in this chapter:

(1) "Secretary" means the Secretary of Natural Resources.

(2) "Substantial improvement" means the construction or reconstruction of a trail in a manner that requires substantial site grading, substantial subsurface excavation, substantial clearing of vegetation, or substantial modification to the routing of a trail. "Substantial improvement" does not include routine maintenance to a trail or minor improvements to improve trail function.

(3) "Trails" means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails shall include all

infrastructure incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage. Trails shall not include any trail accessed primarily by a mechanical lift. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be the operation of a motor vehicle. As used in this subdivision, "motor vehicle" shall not include all-terrain vehicles or snowmobiles..

(4) "Trail organization" means any person who controls, operates or owns a trail.

(5) "Major trail project" means any new trail construction or the substantial improvement of an existing trail that involves more than 10 acres of land within a radius of five miles of any point on any involved land, within any continuous period of five years.

§ 466. RESPONSIBILITY OF PARTICIPATING TRAIL ORGANIZATION

(a) A trail organization may enroll their trails in a certification program administered by the Secretary by completing a form developed by the Secretary.

(b) A trail organization enrolled in the trail certification program established by this chapter shall:

(1) identify all trails controlled by the trail organization in existence on the date the organization is enrolled in the program established under this chapter;

(2) for trail organizations with 25 or more miles of trails under their control, operation, or ownership, engage in a periodic planning process that develops a conceptual plan for the siting and construction of new trails and improvements to existing trails over a five-year period;

(3) the trail organization shall inspect trails under their control, operation, or ownership for compliance with trail best management practices, identify trails that do not meet best management practices, and report to the Secretary on the status of compliance in a manner

prescribed by the Secretary, along with a plan to return, to the extent practicable, those trails to compliance and upgrade preexisting trails that are in significant noncompliance. Inspections of trails shall take place at least every five years;

(4) notify the Secretary of major trail projects at least 120 days before the commencement of construction and consult with the Secretary on the application of best management practices to that major trail project; and

(5) all new trails constructed by the trail organization and, to the extent practicable, substantial improvements to existing trails shall comply with trail best management practices and avoid sensitive natural areas adopted by the Secretary.

(c) Any trail that was permitted under 10 V.S.A. chapter 151 that is controlled, operated, or owned by a trail organization who enrolled in this certification program shall be governed by the requirements of this chapter

§ 467. RESPONSIBILITY OF THE SECRETARY

(a) The Secretary may adopt rules necessary for the implementation of this chapter.

(b) The Secretary shall adopt rules that establish the following:

(1) best management practices for the siting, design, construction, use, and maintenance of trails that ensures that trails certified under this chapter are constructed and operated in a manner that does not result in an undue adverse impact to the human or natural communities where they are located are a part of the certification program established under this chapter; and

(2) sensitive natural resource areas that new trail construction avoids;

(3) a trail specific pre-construction variance process that provides flexibility for trail organizations that cannot comply with best management practices or avoidance of sensitive natural areas and that avoid, minimize, and mitigate impacts to natural resources;

(4) guidelines for how trail organizations inspect trails under their control for compliance with best management practices and how to report these inspections to the Secretary, and how to develop a plan for returning a noncompliant trail or trail segment to compliance;

(5) a pre-construction review process whereby trail organizations demonstrate compliance with trail certification program requirements, including any necessary variances, prior to commencing construction of a new major trail project;

(6) guidelines for how the Secretary conducts an audit of trails enrolled in the system.

(c) The Secretary shall inspect all trails for compliance with the certification program at least every five years.

(d) If the Secretary finds that a trail organization is not in compliance with the requirements of this chapter, the Secretary shall issue a corrective action letter detailing the observed noncompliance, steps that the trail organization is required to take, and deadlines for the completion of those corrective actions.

(e) If the Secretary determines that a trail organization is in significant noncompliance with the terms of the certification program or the trail organization fails to implement a corrective action plan issued under subsection (d) of this section the Secretary may remove a trail organization from the certification program.

Sec. 3. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(38) “Recreational trail” has the same meaning as “trails” in subdivision 442(3) of this title.

Sec. 4. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

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(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a recreational trail, provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under this chapter on its own.

(z) Until January 1, 2023 no permit is required for a Vermont trails system trail recognized pursuant to chapter 20 of this title if the trail was in existence prior to July 1, 2021.

(aa) Upon adoption of rules required by 10 V.S.A. chapter 20A, no permit or amendment is required for a trail enrolled in the certification program adopted pursuant to chapter 20A of this title.

Sec. 5. TRAIL BMP RULEMAKING

The Agency of Natural Resources shall consult with stakeholders on the rules required by 10 V.S.A. § 467(b), including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation. The Agency shall file a proposed rule with the Interagency Committee on Administrative Rules on or before July 1, 2022.

Sec. 6. AUTHORIZATION OF POSITION

The establishment of the following new limited service classified positions is authorized in fiscal year 2022 and shall be transferred and converted from existing vacant positions in the Executive Branch and shall not increase the total number of authorized State positions:

- (1) Department of Fish and Wildlife – 1 resource biologist;
- (2) Department of Forests, Parks, and Recreation – 1 trails program analyst; and
- (3) Agency of Natural Resources – 1 planner.

Sec. 7. EFFECTIVE DATE

This Act shall take effect upon passage.