

32 V.S.A. § 3755. Eligibility for use value appraisals

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings that meet the criteria contained in this subchapter and in the rules adopted by the Board shall be eligible for use value appraisal.

(b) Managed forestland shall be eligible for use value appraisal under this chapter only if:

(1) The land is subject to a forest management plan, subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), that is filed in the manner and form required by the Department of Forests, Parks and Recreation and that:

(A) Is signed by the owner of the parcel.

(B) Complies with subdivision 3752(9) of this title.

(C) Is approved by the Department of Forests, Parks and Recreation.

(D) Provides for continued conservation management, reserve forestland management, or forest crop production on the parcel for 10 years. An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation on or before October 1 and shall be effective for a 10-year period beginning the following April 1. Prior to expiration of a 10-year plan and on or before April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for the next succeeding 10 years to remain in the program.

(E) The Department may approve a forest management plan that provides for the maintenance and enhancement of the tract's wildlife habitat where clearly consistent with timber production and with minimum acceptable standards for forest management as established by the Commissioner of Forests, Parks and Recreation.

(F) The Department, upon giving due consideration to resource inventories submitted by applicants, may approve a conservation management plan, consistent with conservation management standards, so as to include appropriate provisions designed to preserve areas with special ecological values; fragile areas; rare or endangered species; significant habitat for wildlife; significant wetlands; outstanding resource waters; rare and irreplaceable natural areas; areas with significant historical value; public water supply protection areas; areas that provide public access to public waters; and open or natural areas located near population centers or historically frequented by the public. In approving a plan, the Department shall give due consideration to the need for restricted public access where required to protect the fragile nature of the resource; public accessibility where restricted access is not required; facilitation of appropriate, traditional public usage; and opportunities for traditional or expanded use for educational purposes and for research.

(2) A management report of whatever activity has occurred, signed by the owner, has been filed with the Department of Taxes' Director of Property Valuation and Review on or before February 1 of the year following the year when the management activity occurred.

(3) There has not been filed with the Director an adverse inspection report by the Department stating that the management of the tract is contrary to the forest management plan, conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management. The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall be signed by all the owners and shall contain the tax identification numbers of all the owners. All information contained within the management activity report shall be forwarded to the Department of Forests, Parks and Recreation, except for any tax identification number included in the report. If any owner satisfies the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan that is required to be filed on or before October 1, or a management plan update that is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report that is required to be filed on or before February 1 of the year following the year when the management activity occurred, the owner may submit that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

(c) The Department of Forests, Parks and Recreation shall periodically review the management plans and each year review the management activity reports that have been filed.

(1) At intervals not to exceed 10 years, the Department shall inspect each parcel of managed forestland qualified for use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion.

(2) The Department shall have the ability to enter parcels of managed forestland for the purpose of inspections. The Department may bring any other staff from the Agency of Natural Resources that have the expertise to evaluate compliance with this chapter or staff that may be required to ensure the safety of the Department while conducting the inspections.

(3) If the Department finds that the management of the tract is contrary to the conservation plan or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials, and the Director an adverse inspection report within 30 days after the conclusion of the inspection process.

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under subdivision 3756(i)(1) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then the forest management plan shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new forest management plan, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to the applicant's qualification. Any documents submitted by an applicant as evidence of income shall

be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of 1 V.S.A. § 317(c)(6).

~~(f) To maintain eligibility for use value appraisal under this subchapter, on or before November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner at the time of application or enrollment that the agricultural land or buildings enrolled by that owner will continue to meet the requirements for enrollment in the use value program and that the owner will immediately notify the Commissioner of any change in use that makes any enrolled land or buildings ineligible for continued use value appraisal, at the time of the certification. The owner's change of use notice shall be made on a form specified by the Director of Property Valuation and Review. In the event the owner of agricultural land or buildings enrolled in the use value program fails to timely notify the Commissioner of any change in use that disqualifies any enrolled land or building from use value appraisal, the owner shall be required to repay the Commissioner all benefits improperly received because any land or building was subject to use value appraisal. The owner may also be required to pay reasonable interest on any benefit repayment. If the owner fails to promptly repay the full benefit, the amount owed shall constitute a lien that runs with the land in accordance with section 3757 (f)(2) of this chapter. If the Commissioner has any reason to believe any enrolled agricultural land or building may not be eligible for use value appraisal, the Commissioner may require the owner to certify in writing under oath within 30 days of the request that the land or buildings remain eligible, or alternatively, to file a change in use form and make any required benefit repayment. ~~on or before November 1 of each year as required under this subsection, the Commissioner may waive the certification requirement, provided the Commissioner obtains, through other means, satisfactory information that the agricultural land continues or agricultural buildings continue to meet the other requirements for enrollment. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.~~~~

(g) Any applicant for a use value appraisal or any beneficiary of a use value appraisal must be in good standing with the Department of Taxes pursuant to subsection 3113(g) of this title to be eligible or to maintain eligibility for use value appraisal under this subchapter.

32 V.S.A. § 3256. Qualification for use value appraisal

(a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value, provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form provided by the Director. A farmer whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year shall be entitled to have eligible property appraised at its use value if the farmer was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

(b) Deleted by 2007, Adj. Sess., No. 190, § 2, eff. July 1, 2008.

(c) *The Director shall notify the applicant not later than April 15 of the Director's decision to classify or refusal to classify the applicant's property as eligible for use value appraisal. In the case of a refusal, the Director shall state the reasons therefor in the notification.*

(d) *The assessing officials shall appraise qualifying agricultural and managed forestland and farm buildings at use value appraisal as defined in subdivision 3752(12) of this title. New buildings or improvements on enrolled agricultural land or an adjoining housesite that appear to be farm buildings but are not yet enrolled in the use value program shall initially be presumed to be farm buildings subject to use value appraisal. Assessing officials may communicate with the owner to ask about the intended use of new buildings or improvements and may communicate with the Commissioner to request the Commissioner's determination of whether a new building or improvement is eligible for the use value appraisal program. The Commissioner may require the owner of agricultural land to enroll any new building or improvement to qualify for use value appraisal and is authorized to determine eligibility. In the interim before the Commissioner makes a determination, assessing officials' assessment of a new building or improvement that the owner claims is a farm building shall be at use value appraisal, to ensure adequate time for enrollment and to prevent erroneous fair market value assessments of farm buildings. If the land to be appraised is a portion of a parcel, any portion not receiving a use value appraisal shall be valued at its fair market value as a stand-alone parcel, and, for the purposes of the payment under [section 3760](#) of this chapter, the entire parcel shall be valued at its fair market value as other similar parcels in the municipality.*

(e) *Once a use value appraisal has been applied for and granted under this section, such appraisal shall remain in effect for subsequent tax years pursuant to the provisions of subsection (f) of this section and until the property concerned is transferred to another owner or is no longer eligible under provisions of [section 3752](#) or [3755](#) of this chapter, or due to a change of use, or as otherwise provided in [section 3757](#) of this chapter. If enrolled property is transferred to another owner, the new owner shall be entitled to continue to have the eligible property appraised at its use value, provided the property remains eligible and provided the new owner shall elect the continuation of use value appraisal on the property transfer tax return at the time of transfer and, within 30 days after the property transfer tax return has been received by the municipality for recording, has applied to the Director and paid the fees described in this subsection. The grant of use value appraisals of agricultural forestland and farm buildings shall be recorded in the land records of the municipality by the clerk of the municipality. Applications shall include the fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title, and a fee of \$70.00 for deposit in a special fund established and managed pursuant to chapter 7, subchapter 5 of this title. The Fund shall be available as payment for the fees of the clerk of the municipality and to offset the costs of administering the application and managing the program.*

(f) *Each year the Director shall determine whether previously classified property is still eligible for use value appraisal and whether the amount of the previous appraisal is still valid. If the Director determines that previously classified property is no longer eligible, or that the property has undergone a change in use such that the use change tax may be levied in accordance with [section 3757](#) of this chapter, or that the use value appraisal should be fixed at a different*

amount than the previous year, the Director shall thereafter notify the property owner of that determination.

(g) The Director shall execute and provide other forms and the Board shall adopt other procedures and regulations as are needed to ensure a fair opportunity for owners to qualify under this subchapter and to ensure compliance with the provisions of this chapter.

(h) On or before March 15, the Director shall provide to each municipality a list of property in the municipality that is to be taxed based on its use value appraisal. The list shall include the owners' names, a grand list number or description of each parcel of land to be appraised at use value, the acreage to be taxed on the basis of use value, the use values to be used for land, and the number and type of farm buildings to be appraised by the assessing officials at use value. The assessing officials shall determine the listed value of the land to be taxed at use value and its estimated fair market value and fill in these values and the difference between them on the form. This form shall be used by the Treasurer or the collector of current taxes to make up tax bills such that the owner is billed only for taxes due on the owner's property not enrolled in the program, plus taxes due on the use value of property enrolled in the program. The assessing officials shall submit the completed form to the Director on or before July 5.

(i)(1) After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

(2)(A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

(i) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

(ii) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

(B) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by providing notification of removal to the owner. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A.

chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of this section.

(j) The Commissioner may exempt a farmer-owner of agricultural land and farm buildings located within the municipality and otherwise eligible under this subchapter for use value appraisal from the terms of the definition of a “farmer” contained in subdivision 3752(7) of this chapter, for a year at a time, because of personal hardship created by personal or family disability or death, by economic disaster such as loss of farm buildings, equipment, or livestock due to fire or disease, or by natural disaster such as flood or drought. The agricultural land and farm buildings concerned shall continue in this instance to be taxed on the basis of use value appraisal.