

H.926 Side by Side

As Passed House	As Passed Senate
Trails	
<p>§ 6001. DEFINITIONS (50) “Recreational trail” shall have the same meaning as “trails” in subdivision 442(3) of this title. (51) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to <u>section 443</u> of this title. The construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal or State purpose <u>under this chapter</u>.</p>	<p>§ 6001. DEFINITIONS (38) “Recreational trail” has the same meaning as “trails” in subdivision 442(3) of this title. (39) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to <u>chapter 20</u> of this title. <u>For purposes of this chapter</u>, the construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal, <u>county</u>, or State purpose.</p>
<p>10 V.S.A. § 442(3) is amended to read: (3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes. <u>“Trails” does not include land primarily used for the operation of a motor vehicle. For purposes of this definition, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.</u></p>	<p>10 V.S.A. § 442(3) is amended to read: (3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes, <u>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.</u></p>

H.926 Side by Side

<p>10 V.S.A. § 6001(3)(A) is amended to read: (3)(A) “Development” means each of the following: * * *</p> <p><u>(xiii) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.</u> <u>(I) This subdivision shall be the exclusive mechanism for determining jurisdiction over a new or proposed recreational trail that is or will be a part of the Vermont trails system.</u> <u>(II) This subdivision shall apply to the construction of improvements made on or after July 1, 2020.</u> <u>(III) For purposes of this subdivision, involved land includes infrastructure that is necessary for the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage. Involved land does not include any recreational trail constructed before July 1, 2020.</u> <u>(IV) The total acreage of involved land shall include any ground disturbance and clearing that will occur. Area where no ground will be disturbed or cleared shall not be considered involved land.</u> <u>(V) Development and subdivisions requiring a permit under another provision of this chapter shall include recreational trails for determining the amount of involved land that relates to that development but shall not consider the construction of improvements related to the trail as a part of the review of that permit application.</u></p>	<p>10 V.S.A. § 6001(3)(A) is amended to read: (3)(A) “Development” means each of the following: * * *</p> <p><u>(xi) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.</u> <u>(I) This subdivision (xi) shall be the exclusive mechanism for determining jurisdiction over a recreational trail that is a Vermont trails system trail and shall only apply to the construction of improvements made on or after October 1, 2020.</u> <u>(II) For purposes of this subdivision (xi), involved land includes:</u> <u>(aa) land that is physically altered, including any ground disturbance and clearing that will occur; and</u> <u>(bb) infrastructure that is incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage.</u> <u>(III) For purposes of this subdivision (xi), involved land does not include land where no ground will be disturbed or cleared or any Vermont trails system trail constructed before October 1, 2020.</u></p>
<p><u>(vi) Recreational trails. Jurisdiction over a recreational trail shall extend only to the recreational trail and infrastructure that is necessary for the operation of the trail. Jurisdiction shall not extend to the rest of a parcel or parcels where a recreational trail is located.</u></p>	<p><u>(vi) Recreational trails. When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction shall extend only to the recreational trail and infrastructure that is incidental to the operation of the trail. Jurisdiction shall not extend to the remainder of a parcel or parcels where a recreational trail is located, unless otherwise determined to be jurisdictional pursuant to another provision of this chapter.</u></p>
<p>§ 6081. PERMITS REQUIRED; EXEMPTIONS * * *</p> <p><u>(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 trail provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under 10 V.S.A. chapter 151 on its own.</u></p>	<p>§ 6081. PERMITS REQUIRED; EXEMPTIONS * * *</p> <p><u>(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.</u></p>

	<p>(z) Notwithstanding 1 V.S.A. §§ 213 and 214, and until January 1, 2022, 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 October 1, 2020.</p>
<p>Sec. 14a. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT <u>On or before December 15, 2020, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that includes technical assistance, education, and oversight from the Agency of Natural Resources. The report shall include recommendations for a strategic plan and comprehensive mapping, legislative authority to administer the program, and potential funding sources. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.</u></p>	<p>Sec. 6. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT <u>On or before January 15, 2021, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that is administered by the Agency of Natural Resources. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.</u></p>
<p><u>(b) 10 V.S.A. § 6001(3)(A)(xiii) shall be repealed on January 1, 2022.</u></p>	<p><u>10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.</u></p>
<p>Criterion 8(C)</p>	
<p>§ 6001. DEFINITIONS <u>(38) “Connecting habitat” refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include recreational trails and improvements constructed for farming, logging, or forestry purposes.</u> <u>(39) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.</u> <u>(40) “Fragmentation” means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other</u></p>	<p>§ 6001. DEFINITIONS <u>(40) “Connecting habitat” means land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include features including recreational trails and improvements constructed for farming, logging, or forestry purposes.</u> <u>(41) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include features including recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.</u> <u>(42) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.</u></p>

H.926 Side by Side

<p>structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.</p> <p>(41) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.</p> <p>(42) As used in subdivisions (38), (39), and (40) of this section, “recreational trail” means a corridor that is not paved and that is used for recreational purposes, including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.</p>	
<p>10 V.S.A. § 6086(a)(8) is amended to read:</p> <p>(8) <u>Ecosystem protection; scenic beauty; historic sites.</u></p> <p>(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, or historic sites or rare and irreplaceable natural areas.</p> <p>(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if unless it is demonstrated by any party opposing the applicant that a development or subdivision will <u>not</u> destroy or significantly imperil necessary wildlife habitat or any endangered species; and or, if such destruction or imperilment will occur:</p> <p>(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or</p> <p>(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or</p> <p>(iii) a reasonably acceptable alternative site is <u>not</u> owned or controlled by the applicant which that would allow the development or subdivision to fulfill its intended purpose.</p> <p>(C) Will not <u>result in an undue adverse impact on forest blocks, connecting habitat, or rare and irreplaceable natural areas. If a project as proposed would result in an undue adverse impact,</u> a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.</p>	<p>10 V.S.A. § 6086(a)(8) is amended to read:</p> <p>(8) <u>Ecosystem protection; scenic beauty; historic sites.</u></p> <p>(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.</p> <p>(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and</p> <p>(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or</p> <p>(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or</p> <p>(iii) a reasonably acceptable alternative site is owned or controlled by the applicant which that would allow the development or subdivision to fulfill its intended purpose.</p> <p>(C) Will not <u>have an undue adverse impact on forest blocks and connecting habitat. A permit shall be granted only if impacts to forest blocks and connecting habitat are avoided, minimized, and mitigated in accordance with rules adopted by the Board.</u></p>

H.926 Side by Side

Sec. 15. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how fragmentation of forest block or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines and fence lines.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group to provide input to the rule prior to prefiling with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before September 1, 2020.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before September 1, 2021.

Sec. 10. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how impacts can be avoided, minimized, or mitigated, including how fragmentation of forest blocks or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines. As used in this subdivision, "fragmentation" means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation, and criteria to identify when a forest block or connecting habitat is not eligible for mitigation due to the unique value of the area and need to maintain the functionality of the forest block or connecting habitat.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses and limitations of on-site and off-site mitigation.

(b) Prior to prefiling with the Interagency Committee on Administrative Rules, the Board shall convene a working group to gather input on the rule.

H.926 Side by Side

	<p><u>The working group shall ensure broad, inclusive, and transparent engagement with the public, which shall include a broad range of stakeholders and interested parties. The Board shall convene the working group on or before March 15, 2021.</u></p> <p><u>(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before August 15, 2022.</u></p>
<p>§ 127. RESOURCE MAPPING</p> <p>(a) On or before January 15, 2013, the <u>The Secretary of Natural Resources (the Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.</u></p> <p>(b) The Secretary of Natural Resources shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.</p> <p><u>(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.</u></p>	<p>§ 127. RESOURCE MAPPING</p> <p>(a) On or before January 15, 2013, the <u>The Secretary of Natural Resources (the Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.</u></p> <p>(b) The Secretary of Natural Resources shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.</p> <p><u>(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.</u></p>
<p>Sec. 16. EFFECTIVE DATES AND SUNSET</p> <p>(a) <u>This act shall take effect on passage, except that 10 V.S.A. § 6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.</u></p>	<p>Sec. 12. EFFECTIVE DATES</p> <p><u>This act shall take effect on October 1, 2020, except that Sec. 9, 10 V.S.A. § 6086(a)(8), shall take effect on September 1, 2022.</u></p>