

| Act 171 Forest Integrity Study Committee Draft Summary of Potential Changes Presented on Oct. 18, 2016 | | | | Notes from November 18, 2016 Meeting and Follow-up Correspondance | | | |
|---|---------------------------------|---|--|--|--|-----------------|---|
| Potential Changes to Act 250 | | | | Questions, Clarifications, and Potential Impacts to Changes to Act 250 | | | |
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| Potential changes to Criteria within Act 250 | | | | Potential changes to Criteria within Act 250 | | | |
| 1.1 | Bonnie Waninger VAPDA | Utilize Criterion 9(C) to affect protection of forest integrity and habitat connectivity by refining the definition of "productive forest soils". | Add a "productive forest soils" to online mapping resources. | B. Waninger | This will help clarify the location of productive forests. | J. Wood | Defintions of "productive" will affect the outcome and impacts. There may be unintended consequences of a poorly defined product. Pending suitable definitions the negative impact of 1.1 (above) will be remedied in 1.2. The potential change would require legislative change. |
| 1.2 | Bonnie Waninger VAPDA | Alternative of 1.1 (above): Modify Criterion 9(C) to focus on protection of forest blocks and their connectivity, rather than on forest soils. | | B. Waninger | This will encourage wildlife habitat. | Study Committee | Regarding 1.1 -1.5: Promotes forest health and integrity. |
| 1.3 | Diane Snelling NRB | Modernize Criterion 9(C) to better protect defined "forest blocks" and minimize the impacts of posposed development projects on forest blocks. | Make changes in a manner similar to those applied to Criterion 9(L) two years ago. | | | B. Waninger | Regarding 1.1 - 1.5: Without clear defintions, effective protection or maintenance of forest blocks and other discussed natural resources will be difficult and unclear. |
| 1.4 | Jamey Fidel VNRC | Develop guidance for the effective implementation of Criterion 9(C), including the development of a statewide map of productive soils for forestry. | Based on a review of case law relevant to Act 250, VNRC does not believe Criterion 9(C) is effectively maintaining soils for commercial forestry as it is supposed to. | | | B. Waninger | Regarding 1.1 -1.5: This language provide a new criteria for property owners to address while addressing others. |
| 1.5 | Agency of Natural Resources | Amend Criterion 9(C) to focus on forest blocks instead of soils. | | | | J. Wood | Regarding 1.1 - 1.5: Landowners who have kept forestland as forest would now face restrictions for future use. This is mostly encompassed in the 'forest block' concept. |
| | | | | | | S. Smith | Regarding 1.1 -1.5: This may conflict with already protected prime ag soils. |
| 1.6 | Agency of Natural Resources | Authorize off-site mitigation for impacts under Criterion 9(C). | | P. Gill | Couple this potential change with 1.11 (below). | Study Committee | Promotes forest health and integrity. |
| 1.7 | Agency of Natural Resources | Enhance criterion 8(A) to include explicit consideration of significant forest blocks and connecting habitat. | | B. Coster | This change could allow Criterion 9(C) to remain the same while adding conditions to Criterion 8. Definitions are needed. Under 8(A), the burden is on others to show that the applicant is impacting natural resources. | Study Committee | Regarding 1.7 - 1.8: Promotes forest health and integrity. |
| | | | | J. Wood | Clarify defintions of 'critical wildlife habitat' and 'connecting wildlfie habitat'. | D. Snelling | Regarding 1.7 - 1.8: Changes to Act 250 are far reaching. |
| | | | | S. Smith | Would including habitat affect conduct of forestry operations? | P. Gill | Regarding 1.7 - 1.8: We need parity between Act 250 and municipal land use. |

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| | | | | M. Snyder | No, no effect on conduct of forestry operations. | | |
| 1.8 | Agency of Natural Resources | Add definitions to 10 V.S.A. § 6001 for 'significant forest blocks' and 'significant connecting habitat', so that those features of forest integrity can be addressed specifically in Act 250. | | | | | As in 1.7 above. |
| 1.9 | Jamey Fidel VNRC | Expand Criterion 8 10 V.S.A. § 6601 to include definitions for "Forest blocks"; "Forest fragmentation"; "Habitat fragmentation"; "Habitat connectivitiy" or "habitat connector". | | L. Leriche | Needs definitions, particularly because they might change in legislature. | Study Committee | Promotes forest health and integrity. |
| | | | | M. Snyder | We do have defintions in the law. | | |
| | | | | J. Wood | Do any changes extend any exemption for 'forestry operations' consistent with definition for municipal regulation? | | |
| 1.10 | Jamey Fidel VNRC | Change Criterion 8 10 V.S.A. § 6086. (a) (8) Issuance of permit; conditions and criteria. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas, <u>forest blocks, or habitat connectivity.</u> | | J. Fidel | This could be coupled with 1.7 (above). | Study Committee | Promotes forest health and integrity. |
| 1.11 | Jamey Fidel VNRC | Expand Criterion 8 10 V.S.A. § 6086. (a) (8) to include (B) <u>Forest blocks. A permit will not be granted unless it is demonstrated by the applicant that a development or subdivision will not have an undue adverse impact on forest blocks as defined in § 6001 of this section. Undue adverse impacts to forest blocks may be reduced or eliminated through project design that minimizes forest fragmentation, or through mitigation according to 10 V.S.A. § 6094.</u> | Methods for avoiding such adverse impacts may include the following: i) Locating buildings and associated development envelopes to reduce incursion into forest blocks. ii) Designing roads, driveways and utilities to avoid and/or minimize the fragmentation of forest blocks. This could be accomplished by following or sharing features such as existing roads, tree lines, stonewalls and fence lines. iv) Clustering buildings and associated building envelopes to avoid and/or minimize the fragmentation of forest blocks. | J. Fidel | This change can build in more options as to how to address forest connectivity, for example, how to avoid and minimize impacts of development while not leading to an interpretation of no development unless the applicant failed entirely to address it. | Study Committee | Promotes forest health and integrity. |

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| 1.12 | Jamey Fidel VNRC | Expand Criterion 8 10 V.S.A. § 6086. (a) (8) to include <u>(C) Habitat connectivity. A permit will not be granted unless it is demonstrated by the applicant that a development or subdivision will not have an undue adverse impact on habitat connectivity as defined in § 6001 of this section. Undue adverse impacts to habitat connectivity may be reduced through project design that minimizes habitat fragmentation, or through mitigation according to 10 V.S.A. § 6094.</u> | Methods for avoiding such adverse impacts may include the following: i) Locating development as far away from the center of a habitat connectivity area as possible when a practical development site is available (e.g., when there is an option for development to be located towards the middle of the corridor, versus at the edge, development must be placed toward the edge) unless the less disruptive option involves locating development in close proximity to other existing development in the connectivity area. Similarly, locating development to leave the greatest contiguous land areas as undisturbed habitat to facilitate wildlife travel through the area. ii) In the event that there is no land that is practical for development outside of the connectivity area, design the development to minimize impacts on the continued viability and use of the area by wildlife. | | | Study Committee | Promotes forest health and integrity. |
| 1.13 | Jamey Fidel VNRC | Expand Criterion 8 10 V.S.A. to include <u>§ 6094. Mitigation of forest blocks and habitat connectivity.</u> <u>(a) Mitigation for undue adverse impacts to forest blocks and habitat connectivity to satisfy subdivision §6086(a)(8)(B)-(C) of this title.</u> <u>(1) Project located outside a designated center. If the project is not located in a designated center as defined by 10 V.S.A. §6001(30), mitigation may be allowed if the applicant demonstrates the following:</u> <u>(A) The applicant has first avoided direct, indirect or other impacts by relocating, redesigning or making adjustments to the project so there is not forest or habitat fragmentation;</u> <u>(B) If avoidance of impacts is not possible, the applicant has minimized direct, indirect or other impacts by relocating, redesigning or making adjustments to the project to minimize forest or habitat fragmentation;</u> | | | | Study Committee D. Snelling | Promotes forest health and integrity. These potential changes might require rulemaking. |

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| | | <u>(C) If the applicant has taken all [practicable] measures to avoid and minimize undue adverse impacts of the development consistent with subcriteria (A) and (B) above, but there is still an undue adverse impact, the district commission may consider a proposal to mitigate the undue adverse impacts through compensation. Compensation may include the protection of areas of a similar quality and character, or other compensation measures outlined by the natural resources board in consultation with the agency of natural resources in rules, which could include a deposit into an offsite mitigation fee into the Vermont Housing and Conservation Trust Fund established under section 312 of this title for the purpose of preserving forest blocks and habitat connectivity [lands, or habitat connectors] of equal or greater value.</u> | | | | | |
| Review of jurisdictional triggers | | | | Review of jurisdictional triggers | | | |
| 1.14 | Diane Snelling NRB | Adjust Act 250 triggers to include projects mapped within a "forest block" or those with specified size, location, or other characteristics that affect forest blocks. | | J. Wood | Regarding 1.14 - 1.15: Clarify extent of "adjust triggers". | Study Committee | Regarding 1.14 - 1.15: Promotes forest health and integrity. |
| 1.15 | Diane Snelling NRB | Create a method for project development applicants, or any other interested party, to rebut determination of whether or not a parcel is in a "forest block" | | | | J. Wood | Regarding 1.14 - 1.15: Significant reduction in land value for forestland owners, and potentially future investors. |
| 1.16 | Jamey Fidel VNRC | Adjust triggers that prompt the Cumulative Road Rule to include jurisdiction over a total of 1,200' of combined road and driveway on any parcel within a 10-year period. | | J. Wood | Are forestry operations subject to this change? | Study Committee | Promotes forest health and integrity. |
| | | | | J. Fidel | VNRC does not intend for the road rule to apply to forestry roads but would anticipate it applying to forestry roads that are then converted to roads for development. | D. Snelling | In past, it was difficult to administer and there were many unintended consequences. |
| | | | | | | J. Wood | Unintended consequence on legitimate forest management roads. |
| | | | | | | L. Leriche | Unintended consequence of landowners building an ill-advised short road that is poorly constructed regarding drainage, stormwater (e.g. landowner builds shortest road straight up a hill). VNRC should amend change so that forestry roads are not triggers. |

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| 1.17 | Jamey Fidel VNRC | Adjust triggers that prompt Setback rules to include jurisdiction over any development located 1,000' or greater from an existing state highway or class 1, 2 or 3 town highway. | | D. Snelling | More study attributed to 1000' length. Would that length limit or prohibit development or would it promote smarter development? | Study Committee | Promotes forest health and integrity. |
| | | | | | | B. Waninger | Potential negative consequences to existing developed areas. |
| | | | | | | J. Wood | Unintended consequence of limiting subdivision of forested parcels during intergenerational land transfer, or any land transfer. |
| | | | | | | J. Wood | Unintended consequence of set number (1000') may promote loopholes. Should be site-specific. |
| 1.18 | Jamey Fidel VNRC | Adjust triggers that prompt Rural Road Development rules to include jurisdiction over any development located on a class 4 road. | | P. Gill | Amendment jurisdiction should be considered for any in "Review of Jurisdictional Triggers". | Study Committee | Promotes forest health and integrity. |
| | | | | C. Cochran | Need to study each potential change to understand impacts more thoroughly – applies to any in "Review of Jurisdictional Triggers". | S. Webster | May enhance value of existing camps. |
| | | | | | | L. Leriche | May anger hunters. |
| 1.19 | Jamey Fidel VNRC | Adjust triggers that prompt Location Relative to Habitat rules to include jurisdiction over development within an identified forest block or area of connectivity. This could be limited to expanding jurisdiction to just the highest ranking forest blocks or areas of connectivity. This could also include utilizing the various jurisdictional tools only in areas where ANR mapping indicates that there are forest blocks as defined by the Act. For example, in areas within or near forest blocks, Act 250 jurisdiction will be triggered by the building of roads over a certain size, extending utility lines or other infrastructure, developing a reduced number of residential lots, and commercial development on a small number of lots – more than ½ acre or acre – whether or not the municipality has subdivision and zoning bylaws. | | J. Fidel | This change suggests that Act 250 is triggered only when parcel is in a highest forest ranking block. This is suggested as a concept without the details – what are the parcels and who decides this? Other processes might identify most critical habitat. The details would need to be worked out, including identification of the priority forest blocks that would trigger jurisdiction likely utilizing the ANR maps that identify priority forest blocks. | Study Committee | Promotes forest health and integrity. |
| | | | | S. Smith | This could be municipally driven, not state driven. | L. Leriche | Impact cannot be addressed without more detail. |
| 1.20 | Jamey Fidel VNRC | Adjust triggers prompted by the Number of Lots/Units to reduce the jurisdictional trigger to 3/6 lots located outside of a designated center. | | | | Study Committee | Promotes forest health and integrity. |

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| 1.21 | Jamey Fidel VNRC | Repeal the Act 250 Utility Line Exemption . Go back to the historical standard of reviewing both the direct impacts of utility lines that are long enough to trigger Act 250 review, and the secondary impacts of utility line extensions (meaning the impacts of growth associated with the utility line). As part of the policy, ensure that landowners are co-applicants in the Act 250 process to share in the responsibility of reviewing the impacts of development that could result from utility line extensions. | | J. Fidel | Utility lines in this context are associated with landowner development; that is, utility lines for individual homes. | Study Committee | Promotes forest health and integrity. |
| 1.22 | Agency of Natural Resources | Change Act 250 jurisdictional trigger for the subdivision of parcels situated in high ranking habitat blocks. | | | | Study Committee | Regarding 1.22 - 1.24: Promotes forest health and integrity. |
| 1.23 | Agency of Natural Resources | Change Act 250 jurisdictional triggers based on the proposed depth of intrusion into high ranking blocks to encourage landowners to locate lots on the periphery of the block rather than the interior. | | | | J. Wood | Direct disincentive to subdivide land. |
| 1.24 | Agency of Natural Resources | Consider other jurisdictional changes to Act 250 that enable the state to protect critical forest blocks | | | | | |
| Other potential changes | | | | Other potential changes | | | |
| 1.25 | Bonnie Waninger VAPDA | Update Act 250 Definitions and Section 6086 to incorporate 2016 Chapter 117 changes to address undue impacts to forest blocks. | | | | Study Committee | Promotes forest health and integrity. |
| | | | | | | B. Waninger | Aligning defintions would provide clarity and consistency. |
| 1.26 | Lucy Leriche ACCD | Create a new committee of stakeholders to perform a complete review and modernization of existing jurisdictional thresholds and Act 250. | | L. Leriche | This potential change examines where Act 250 and Chapter 117 intersect. | Study Committee | Promotes forest health and integrity. |
| 1.27 | Bonnie Waninger VAPDA | Stregthen ANR participation in Act 250 participation in support of forest integrity and habitat connectivity. | | | | Study Committee | Promotes forest health and integrity. |
| | | | | | | B. Waninger | This potential change should be reviewed by foresters. |
| 1.28 | Sam Lincoln Lincoln AgriSource, LLC and Lincoln Farm Timber Harvesting | Ensure that Forestry Operations continue to remain exempt from Act 250 oversight. | | | | Study Committee | Promotes forest health and integrity. |
| | | | | | | J. Fidel | If the forestry operations definition expands the kinds of activities that are not currently exempt from Act 250, it would be important to understand whether certain types of impacts usually addressed under Act 250 would no longer be reviewed. |

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| 1.29 | Steve Webster for Put Blodgett | Remove Act 250 jurisdiction of forestry operations over 2500' and move jurisdiction to Vermont Department of Forests, Parks and Recreation. | | S. Webster | Working with ANR would be a less formal and quicker process for small operations than working through Act 250 and the NRB. | P. Gill | Criteria right now that are evaluated under Act 250 may potentially not be evaluated by FPR. |
| | | | | | | P. Gill | Removing them from Act 250 review may reduce the ability to evaluate impacts and/or have the landowner participate in review. |
| | | | | | | P. Gill | Public process of Act 250 review may omitted. |
| 1.30 | Agency of Natural Resources | Develop services to assist forest product processing enterprises with the state and local permitting required to establish and expand their operations. | | M. Snyder | Relax some forestry enterprises that support forest integrity. | Study Committee | Promotes forest health and integrity. |
| 1.31 | Agency of Natural Resources | Create expedited permitting proceses or other changes to state and local land use permitting that enable forest product processing enterprises to locate and operate in rural locations that may not be appropriate for certain commercial activity, but are key for forest product enterprises given proximity to managed forest land. | | M. Snyder | This potential change would promote forest integrity by working with forests and supporting the forest economy. | Study Committee | Promotes forest health and integrity. |
| | | | | S. Smith | These concepts parallel many efforts in the Agency of Agriculture. The two agencies could benefit from collaboration. | B. Waninger | Creates inherent conflict with siting rules. |
| | | | | | | D. Snelling | Help foresters' businesses grow where they need to but could be "pre-approval"; that is, these industries must still be exposed to appropriate review. |
| 1.32 | Sam Lincoln Lincoln AgriSource, LLC and Lincoln Farm Timber Harvesting | VFPA recommends that Local land use planning and Act 250 and/or 248 offer conditional exemptions for small to moderate sized operations (firewood processors, chipping and screening operations for fuelwood chips, pellet mills, sawmills, community scale cogeneration plants for district power and heating, etc) that purchase, process and and otherwise utilize raw forest products. Reasonable limits to noise levels, dust and truck traffic could be established that exempt businesses from Act 250/248 review. | | | | J. Fidel | While this could be positive for promoting forest products and energy projects/activities, this would reduce the ability to evaluate criteria covered under Act 250, and would eliminate review or participation from neighbors or affected individuals. |
| 1.33 | Vermont Woodlands Association | Do not make incremental changes to Act 250. | Changes to Act 250 could undermine criterion 9(L) that directs new development to settled areas and reduces development in greenfields and forested areas. | | | M. Snyder | Regarding 1.29 - 1.31: This may miss an opportunity to make easy and helpful change. |
| 1.34 | Lucy Leriche ACCD | Do not make incremental changes to criterion 9(C). | | L. Leriche | This could be folded into 1.26 (above). | | |

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| 1.35 | Karen Horn <i>Vermont League of Cities & Towns</i> | Do not make adjustments to Act 250. | Towns are already challenged, both financially and logistically, to meet obligations presented by legislation passed in the last biennium, specifically Acts 64, 171 and 174. | | | | |