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H.233

Introduced by Representatives Sheldon of Middlebury, McCullough of  
Williston, McCormack of Burlington, Squirrell of Underhill,  
Sullivan of Burlington, and Wood of Waterbury

Referred to Committee on

Date:

Subject: Conservation and development; natural resources; land use; Act 250;  
forest fragmentation; working forests; habitat connectivity

Statement of purpose of bill as introduced: This bill proposes to amend the  
criteria and jurisdiction of the State land use law, known as Act 250, to protect  
forest resources in order to support the forest economy, water quality, and  
habitat.

An act relating to protecting working forests and habitat

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 10 V.S.A. § 6001 is amended to read:~~

~~§ 6001. DEFINITIONS~~

~~In this chapter:~~

~~\* \* \*~~

~~(3)(A) "Development" means each of the following.~~



1 ~~incident to the use such as lawns, parking areas, roadways, leaching fields, and~~  
2 accessory buildings.

3 (vi) The construction of improvements for commercial, industrial,  
4 or residential use above the elevation of 2,500 feet.

5 \* \* \*

6 (xi) The construction of improvements for commercial, industrial,  
7 or residential use if such an improvement at any point is more than 350 feet  
8 within a forest block that is classified as a highest priority interior forest block  
9 or a habitat connectivity area that is classified as a highest priority connectivity  
10 block by the Vermont Conservation Design.

11 \* \* \*

12 (D) The word “development” does not include:

13 (i) The construction of improvements for farming, logging, or  
14 forestry purposes below the elevation of 2,500 feet.

15 \* \* \*

16 (8) “Productive forest soils” means those soils which are not primary  
17 agricultural soils but which have a reasonable potential for commercial  
18 forestry and which have not been developed. In order to qualify as productive  
19 forest soils, the land containing such soils shall be of a size and location  
20 relative to adjoining land uses, natural condition, and ownership patterns so  
21 ~~that those soils will be capable of supporting or contributing to a commercial~~

1 ~~forestry operation. Land use on these soils may include commercial timber~~  
2 harvesting and specialized forest uses, such as maple sugar or Christmas tree  
3 production.

4 \* \* \*

5 (12) "Necessary wildlife habitat" means concentrated habitat which is  
6 identifiable and is demonstrated as being decisive to the survival of a species  
7 of wildlife at any period in its life including breeding and migratory periods.

8 \* \* \*

9 (19)(A) "Subdivision" means each of the following:

10 (i) A tract or tracts of land, owned or controlled by a person,  
11 which the person has partitioned or divided for the purpose of resale into 10 or  
12 more lots within a radius of five miles of any point on any lot, or within the  
13 jurisdictional area of the same District Commission, within any continuous  
14 period of five years. In determining the number of lots, a lot shall be counted  
15 if any portion is within five miles or within the jurisdictional area of the same  
16 District Commission.

17 (ii) A tract or tracts of land, owned or controlled by a person,  
18 which the person has partitioned or divided for the purpose of resale into six or  
19 more lots, within a continuous period of five years, in a municipality which  
20 does not have duly adopted permanent zoning and subdivision bylaws.

21 ~~(iii) A tract or tracts of land, owned or controlled by a person,~~

1 ~~which have been partitioned or divided for the purpose of resale into five or~~  
2 more separate parcels of any size within a radius of five miles of any point on  
3 any such parcel, and within any period of ten years, by public auction.

4 (I) In this subdivision (iii), "public auction" means any auction  
5 advertised or publicized in any manner, or to which more than ten persons  
6 have been invited.

7 (II) If sales described under this subdivision (iii) are of  
8 interests that, when sold by means other than public auction, are exempt from  
9 the provisions of this chapter under the provisions of subsection 6081(b) of  
10 this title, the fact that these interests are sold by means of a public auction shall  
11 not, in itself, create a requirement for a permit under this chapter.

12 (iv) A tract or tracts of land, owned or controlled by a person,  
13 located outside a designated center, if each of the following apply:

14 (I) The person has partitioned or divided for the purpose of  
15 resale within a continuous period of five years into:

16 (aa) three or more lots, in a municipality that does not have  
17 duly adopted permanent zoning and subdivision bylaws; or

18 (bb) six or more lots, in a municipality that does have duly  
19 adopted permanent zoning and subdivision bylaws.

20 (II) Each of the lots created within this period is wholly or  
21 partially within a forest block that is classified as a highest priority interior

1 ~~forest block or a habitat connectivity area that is classified as a highest priority~~  
2 ~~connectivity block by the Vermont Conservation Design.~~

3 (B) The word “subdivision” shall not include each of the following:

4 (i) a lot or lots created for the purpose of conveyance to the State  
5 or to a qualified organization, as defined under section 6301a of this title, if the  
6 land to be transferred includes and will preserve a segment of the Long Trail;

7 (ii) a lot or lots created for the purpose of conveyance to the State  
8 or to a “qualified holder” of “conservation rights and interest,” as defined in  
9 section 821 of this title.

10 \* \* \*

11 (30) “Designated center” means a downtown development district,  
12 village center, new town center, growth center, Vermont neighborhood, or  
13 neighborhood development area designated under 24 V.S.A. chapter 76A.

14 \* \* \*

15 (38) “Forest block” means a contiguous area of forest in any stage of  
16 succession and not currently developed for nonforest use. A forest block may  
17 include existing recreational trails, wetlands, or other natural features that do  
18 not themselves possess tree cover, and improvements constructed for farming,  
19 logging, or forestry purposes.

20 (39) “Fragmentation” means the division or conversion of a forest block  
21 ~~or habitat connectivity area by the separation of a parcel into two or more~~

1 parcels; the construction, reconstruction, conversion, structural alteration,  
2 relocation, or enlargement of any building or other structure, or of any mining,  
3 excavation, or landfill; and any change in the use of any building or other  
4 structure, or land, or extension of use of land. However, fragmentation does  
5 not include the division or conversion of a forest block or habitat connectivity  
6 area by an existing recreational trail or by improvements constructed for  
7 farming, logging, or forestry purposes below the elevation of 2,500 feet.

8 (40) "Habitat" means an area of land or water inhabited or used by a  
9 particular species of wildlife or a community of wildlife species.

10 (41) "Habitat connectivity area" refers to land or water, or both, that  
11 links patches of habitat within a landscape, allowing the movement, migration,  
12 and dispersal of animals and plants and the functioning of ecological  
13 processes. Such land may include existing recreational trails and  
14 improvements constructed for farming, logging, or forestry purposes.

15 (42) "Vermont Conservation Design" means:

16 (A) the Vermont Conservation Design published by the Agency of  
17 Natural Resources in December 2015; or

18 (B) its successor document and associated equivalent maps published  
19 by the Agency of Natural Resources, provided that the classification and  
20 mapping of forest blocks and connectivity blocks in the successor document  
21 and maps are solely science-based.

1 ~~Sec. 2. 10 V.S.A. § 6081 is amended to read:~~

2 § 6081. PERMITS REQUIRED; EXEMPTIONS

3 (a) No person shall sell or offer for sale any interest in any subdivision  
4 located in this State, or commence construction on a subdivision or  
5 development, or commence development without a permit. This section shall  
6 not prohibit the sale, mortgage, or transfer of all, or an undivided interest in  
7 all, of a subdivision unless the sale, mortgage, or transfer is accomplished to  
8 circumvent the purposes of this chapter.

9 \* \* \*

10 (q) For the purposes of reviewing any combination of electrical distribution  
11 and communications lines and subsidiary facilities that, standing alone,  
12 constitutes a development for purposes of this chapter, the actual and potential  
13 impacts considered by the Board or District Commission under subsection  
14 6086(a) of this title shall not include actual or potential impacts of the  
15 construction of other improvements to be served by those lines and subsidiary  
16 facilities, except that the review shall include the actual and potential impacts  
17 of such other improvements if any part of the lines and facilities will be within  
18 a forest block that is classified as a highest priority interior forest block or a  
19 habitat connectivity area that is classified as a highest priority connectivity  
20 block by the Vermont Conservation Design.

21 ~~(r) In situations in which the construction of improvements for any~~

1 ~~combination of electrical distribution and communications lines and subsidiary~~  
2 facilities, standing alone, constitutes a development subject to the jurisdiction  
3 of the Board or District Commission under this chapter, subsequent  
4 construction of improvements for any combination of electrical distribution  
5 and communications lines and subsidiary facilities not identified or reasonably  
6 identifiable at the time construction commences, standing alone, shall be  
7 considered new construction of improvements and shall not be considered a  
8 material or substantial change to that previously permitted development.

9 \* \* \*

10 Sec. 3. 10 V.S.A. § 6086 is amended to read:

11 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

12 (a) Before granting a permit, the District Commission shall find that the  
13 subdivision or development:

14 \* \* \*

15 (8) Will not have an undue adverse effect on the scenic or natural beauty  
16 of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

17 (A) Necessary wildlife habitat and endangered species. A permit  
18 will not be granted if it is demonstrated by any party opposing the applicant  
19 that a development or subdivision will destroy or significantly impede  
20 necessary wildlife habitat or any endangered species; and

21 (i) the economic, social, cultural, recreational, or other benefit to  
22 ~~the public from the development or subdivision will not outweigh the~~

1 ~~economic, environmental, or recreational loss to the public from the~~

2 ~~destruction or imperilment of the habitat or species; or~~

3 ~~(ii) all feasible and reasonable means of preventing or lessening~~  
4 ~~the destruction, diminution, or imperilment of the habitat or species have not~~  
5 ~~been or will not continue to be applied; or~~

6 ~~(iii) a reasonably acceptable alternative site is owned or~~  
7 ~~controlled by the applicant which would allow the development or subdivision~~  
8 ~~to fulfill its intended purpose.~~

9 (B) Forest blocks.

10 (i) A permit will not be granted for a development or subdivision  
11 to be located on or adjacent to a tract that contains a forest block unless the  
12 applicant demonstrates that:

13 (I) the development or subdivision will avoid fragmentation of  
14 the forest block through the design of the project or the location of project  
15 improvements, or both;

16 (II) it is not feasible to avoid fragmentation of the forest block  
17 and the design of the development or subdivision minimizes fragmentation of  
18 the forest block; or

19 (III) it is not feasible to avoid or minimize fragmentation of the  
20 forest block and the applicant will mitigate the fragmentation in accordance

21 with section 6094 of this title.

1 (ii) Methods for avoiding or minimizing the fragmentation of a  
2 forest block may include:

3 (I) Locating buildings and other improvements to avoid or  
4 minimize incursion into the forest block, including clustering of buildings and  
5 associated improvements.

6 (II) Designing roads, driveways, and utilities to avoid or  
7 minimize fragmentation of the forest block. Such design may be  
8 accomplished by following or sharing existing features on the land such as  
9 roads, tree lines, stone walls, and fence lines.

10 (C) Habitat connectivity areas.

11 (i) A permit will not be granted for a development or subdivision  
12 to be located on or adjacent to a tract that contains a habitat connectivity area  
13 unless the applicant demonstrates that:

14 (I) the development or subdivision will avoid fragmentation of  
15 the habitat connectivity area through the design of the project or the location  
16 of project improvements, or both;

17 (II) it is not feasible to avoid fragmentation of the habitat  
18 connectivity area and the design of the development or subdivision minimizes  
19 fragmentation of the area; or

20 (III) it is not feasible to avoid or minimize fragmentation of the  
21 habitat connectivity area and the applicant will mitigate the fragmentation in

1 accordance with section 6094 of this title

2 (ii) Methods for avoiding or minimizing the fragmentation of a  
3 habitat connectivity area may include:

4 (I) locating buildings and other improvements at the farthest  
5 feasible location from the center of the area;

6 (II) designing the location of buildings and other improvements  
7 to leave the greatest contiguous portion of the area undisturbed, in order to  
8 facilitate wildlife travel through the area; or

9 (III) when there is no feasible site for construction of buildings  
10 and other improvements outside the area, designing the buildings and  
11 improvements to facilitate the continued viability of the area for use by  
12 wildlife.

13 (D) Availability of options; forest blocks; connectivity areas. Under  
14 subdivisions (B) and (C) of this subdivision (8):

15 (i) The District Commission shall not issue a positive finding  
16 based on minimization of fragmentation unless it finds that avoidance of  
17 fragmentation is not feasible.

18 (ii) The District Commission shall not issue a positive finding  
19 based on mitigation of fragmentation unless it finds that avoidance and  
20 minimization of fragmentation are not feasible.

21 (9) Is in conformance with a duly adopted capability and development

1 ~~plan, and land use plan when adopted. However, the legislative findings of~~  
2 subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as  
3 criteria in the consideration of applications by a District Commission.

4 \* \* \*

5 (C) Productive forest soils. A permit will be granted for the  
6 development or subdivision of productive forest soils only when it is  
7 demonstrated by the applicant that, in addition to all other applicable criteria,  
8 either, the subdivision or development will not result in any reduction in the  
9 potential of those soils for commercial forestry; or:

10 (i) the development or subdivision will not significantly interfere  
11 with or jeopardize the continuation of agriculture or forestry on adjoining  
12 lands or reduce their agricultural or forestry potential; and

13 (ii) except in the case of an application for a project located in a  
14 designated growth center, there are no lands other than productive forest soils  
15 owned or controlled by the applicant which are reasonably suited to the  
16 purpose of the development or subdivision; and

17 (iii) except in the case of an application for a project located in a  
18 designated growth center, the subdivision or development has been planned to  
19 minimize the reduction of the potential of those productive forest soils through  
20 innovative land use design resulting in compact development patterns, so that  
21 ~~the remaining forest soils on the project tract may contribute to a commercial~~

1 forestry operation

2 \* \* \*

3 Sec. 4. 10 V.S.A. § 6088 is amended to read:

4 § 6088. BURDEN OF PROOF

5 (a) The burden shall be on the applicant with respect to subdivisions  
6 6086(a)(1), (2), (3), (4), (8)(B) and (C), (9), and (10) of this title.

7 (b) The Except for subdivisions 8(B) and (C) of this title, the burden shall  
8 be on any party opposing the applicant with respect to subdivisions 6086(a)(5)  
9 through (8) of this title to show an unreasonable or adverse effect.

10 Sec. 5. 10 V.S.A. § 6094 is added to read:

11 § 6094. MITIGATION OF FOREST BLOCKS AND HABITAT

12 CONNECTIVITY AREAS

13 (a) A District Commission may consider a proposal to mitigate, through  
14 compensation, the fragmentation of a forest block or habitat connectivity area  
15 if the applicant demonstrates that it is not feasible to avoid or minimize  
16 fragmentation of the block or area in accordance with the respective  
17 requirements of subdivision 6086(a)(8)(B) or (C) of this title. A District  
18 Commission may approve the proposal only if it finds that the proposal will  
19 meet the requirements of the rules adopted under this section and will preserve  
20 a forest block or habitat connectivity area of a value equal to or greater than  
21 the block or area affected by the development or subdivision.

22 (b) The Natural Resources Board, in consultation with the Secretary of

1 ~~Natural Resources shall adopt rules governing mitigation under this section.~~

2 (1) The rules shall state the acreage ratio of forest block or habitat  
3 connectivity area to be preserved in relation to the block or area affected by  
4 the development or subdivision.

5 (2) Compensation measures to be allowed under the rules shall be based  
6 on the ratio of land developed pursuant to subdivision (1) of this subsection  
7 and shall include:

8 (A) Preservation of a forest block or habitat connectivity area of  
9 similar quality and character to the block or area that the development or  
10 subdivision will affect.

11 (B) Deposit of an offsite mitigation fee into the Vermont Housing  
12 and Conservation Trust Fund under section 812 of this title, at the fee rate set  
13 forth in the rules. The Vermont Housing Conservation Board shall use such a  
14 fee to preserve a forest block or habitat connectivity area of a value equal to or  
15 greater than the value of the block or area affected by the development or  
16 subdivision.

17 (C) Such other compensation measures as the rules may authorize.

18 (c) All forest blocks and habitat connectivity areas preserved pursuant to  
19 this section shall be protected by permanent conservation easements that grant  
20 development rights and include conservation restrictions and are conveyed to a  
21 qualified holder, as defined in section 821 of this title, with the ability to

1 ~~monitor and enforce easements in perpetuity.~~

2 Sec. 6. RULE ADOPTION: SCHEDULE

3 (a) On or before September 1, 2017, the Natural Resources Board shall file  
4 proposed rules with the Secretary of State to implement Sec. 4 of this act,  
5 10 V.S.A. § 6094.

6 (b) On or before March 1, 2018, the Natural Resources Board shall finally  
7 adopt rules to implement Sec. 4 of this act, 10 V.S.A. § 6094, unless such  
8 deadline is extended by the Legislative Committee on Administrative Rules  
9 pursuant to 3 V.S.A. § 843(c).

10 Sec. 7. EFFECTIVE DATES

11 (a) This section and Sec. 6 shall take effect on passage.

12 (b) The remainder of this act shall take effect on April 1, 2018, except that  
13 on passage the remainder of the act shall apply to the rulemaking under Sec. 6.

*Sec. 1. 10 V.S.A. § 6001 is amended to read:*

*§ 6001. DEFINITIONS*

*In this chapter:*

*\* \* \**

*(3)(A) "Development" means each of the following:*

*\* \* \**

*(D) The word "development" does not include:*

*(i) The construction of improvements for farming, logging, or*

*forestry purposes below the elevation of 2,500 feet.*

\* \* \*

*(12) “Necessary wildlife habitat” means concentrated habitat which is identifiable and is demonstrated as being decisive to the survival of a species of wildlife at any period in its life including breeding and migratory periods.*

\* \* \*

*(38) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use that is mapped as an interior forest block within the 2016 interior forest block dataset created as part of resource mapping under section 127 of this title, as that dataset may be updated pursuant to procedures developed in accordance with that section. 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.*

*(39) “Fragmentation” means the division or conversion of a forest block or habitat connector 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 habitat connector by a recreational trail or by*

improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(40) "Habitat" means the physical and biological environment in which a particular species of plant or animal lives.

(41) "Habitat connector" refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(42) As used in subdivisions (38), (39), and (41) of this section, "recreational trail" means a corridor that is not paved, ~~that has a minor impact on the values of a forest block or habitat connector~~ and that is used for recreational purposes including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

Sec. 2. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

\* \* \*

(8) 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.

*(A) 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*

*(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*

*(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*

*(iii) a reasonably acceptable alternative site is owned or controlled by the applicant which would allow the development or subdivision to fulfill its intended purpose.*

*(B) Forest blocks.*

*(i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that A permit will not be granted for a development or subdivision within or partially within a forest block unless the applicant demonstrates that:*

*(i) the development or subdivision will avoid fragmentation of*

~~a forest block through the design of the project or the location of project improvements, or both,~~

(I) the development or subdivision will avoid fragmentation of the forest block through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the forest block and the design of the development or subdivision minimizes fragmentation of the forest block; or

(III) it is not feasible to avoid or minimize fragmentation of the forest block and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a forest block may include:

(I) Locating buildings and other improvements and operating the project in a manner that avoids or minimizes incursion into and disturbance of the forest block, including clustering of buildings and associated improvements.

(II) Designing roads, driveways, and utilities that serve the development or subdivision to avoid or minimize fragmentation of the forest block. Such design may be accomplished by following or sharing existing features on the land such as roads, tree lines, stonewalls, and fence lines.

(C) Habitat connectors.

(i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of a habitat connector through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the habitat connector and the design of the development or subdivision minimizes fragmentation of the connector; or

(III) it is not feasible to avoid or minimize fragmentation of the habitat connector and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a habitat connector may include:

(I) locating buildings and other improvements at the farthest feasible location from the center of the connector;

(II) designing the location of buildings and other improvements to leave the greatest contiguous portion of the area undisturbed in order to facilitate wildlife travel through the connector; or

(III) when there is no feasible site for construction of buildings and other improvements outside the connector; designing the buildings and

improvements to facilitate the continued viability of the connector for use by wildlife.

\* \* \*

Sec. 3. 10 V.S.A. § 6088 is amended to read:

§ 6088. BURDEN OF PROOF

(a) The burden shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (8)(B) and (C), (9), and (10) of this title.

(b) The Except for subdivisions 6086(a)(8)(B) and (C) of this title, the burden shall be on any party opposing the applicant with respect to subdivisions 6086(a)(5) through (8) of this title to show an unreasonable or adverse effect.

Sec. 4. 10 V.S.A. § 6094 is added to read:

§ 6094. MITIGATION OF FOREST BLOCKS AND HABITAT

CONNECTORS

(a) A District Commission may consider a proposal to mitigate, through compensation, the fragmentation of a forest block or habitat connector if the applicant demonstrates that it is not feasible to avoid or minimize fragmentation of the block or connector in accordance with the respective requirements of subdivision 6086(a)(8)(B) or (C) of this title. A District Commission may approve the proposal only if it finds that the proposal will meet the requirements of the rules adopted under this section and will preserve a forest block or habitat connector of similar quality and character to the

block or connector affected by the development or subdivision.

(b) The Natural Resources Board, in consultation with the Secretary of Natural Resources, shall adopt rules governing mitigation under this section.

(1) The rules shall state the acreage ratio of forest block or habitat connector to be preserved in relation to the block or connector affected by the development or subdivision.

(2) Compensation measures to be allowed under the rules shall be based on the ratio of land developed pursuant to subdivision (1) of this subsection and shall include:

(A) Preservation of a forest block or habitat connector of similar quality and character to the block or connector that the development or subdivision will affect.

(B) Deposit of an offsite mitigation fee into the Vermont Housing and Conservation Trust Fund under section 312 of this title.

(i) This mitigation fee shall be derived as follows:

(I) Determine the number of acres of forest block or habitat connector, or both, affected by the proposed development or subdivision.

(II) Multiply this number of affected acres by the ratio set forth in the rules.

(III) Multiply the resulting product by a “price-per-acre” value, which shall be based on the amount that Commissioner of Forests,

Parks and Recreation to be the recent, per-acre cost to acquire conservation easements for forest blocks and habitat connectors of similar quality and character in the same geographic region as the proposed development or subdivision.

(ii) The Vermont Housing Conservation Board shall use such a fee to preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(C) Such other compensation measures as the rules may authorize.

(c) The mitigation of impact on a forest block or a habitat connector, or both, shall be structured also to mitigate the impacts, under the criteria of subsection 6086(a) of this title other than subdivisions (8)(B) and (C), to land or resources within the block or connector.

(d) All forest blocks and habitat connectors preserved pursuant to this section shall be protected by permanent conservation easements that grant development rights and include conservation restrictions and are conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity.

**Sec. 5. RULE ADOPTION: SCHEDULE; GUIDANCE**

(a) Rulemaking.

(1) On or before September 1, 2017, the Natural Resources Board (NRB) shall file proposed rules with the Secretary of State to implement Sec. 4

of this act, 10 V.S.A. § 6094.

(2) On or before March 1, 2018, the NRB shall finally adopt rules to implement Sec. 4 of this act, 10 V.S.A. § 6094, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Guidance.

(1) On or before May 1, 2018, the NRB shall develop guidance for the District Commissions, applicants, and other affected persons with respect to:

(A) the forest block and habitat connector criteria adopted under Sec. 2 of this act, 10 V.S.A. § 6086(a)(8)(B) and (C); and

(B) designing recreational trails, subdivisions, and developments to minimize impacts in a manner that complies with those criteria.

(2) The NRB shall develop this guidance in collaboration with the Agency of Natural Resources (ANR). As part of developing this guidance, the NRB shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

Sec. 6. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

*(a) ~~On or before January 15, 2013, the~~ 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.*

*(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 Service Board 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.*

*(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 an opportunity for affected parties and the public to submit relevant information and recommendations.*

*Sec. 7. 24 V.S.A. § 4303 is amended to read:*

*§ 4303. DEFINITIONS*

*The following definitions shall apply throughout this chapter unless the*

*context otherwise requires:*

\* \* \*

*(34) As used in subdivisions 4348a(a)(2) and 4382(a)(2) of this title:*

*(A) “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 uses exempt from regulation under subsection 4413(d) of this title.*

*(35)(B) “Forest fragmentation” means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.*

*(36)(C) “Habitat connector” means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase “wildlife corridor” in lieu of “habitat connector.”*

*(37)(35) “Recreational trail” means a corridor that is not paved and that is used for*

*hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.*

*Sec. 8. EFFECTIVE DATES*

*(a) This section and Sec. 5 shall take effect on passage.*

*(b) Sec. 6 shall take effect on July 1, 2017.*

*(c) Sec. 7 shall take effect on January 1, 2018 and shall supersede 2016 Acts and Resolves No. 171, Sec. 15. Sec. 7 shall apply to municipal and regional plans adopted or amended on or after January 1, 2018.*

*(d) Secs. 1 through 4 shall take effect on May 1, 2018, except that on passage, Secs. 1 through 4 shall apply to the rulemaking and guidance under Sec. 5.*