APPENDIX H to the N ½ OSR Environmental Assessment

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Subject: Supplemental Information Report: Environmental Assessment, North Half Overstory Removal Project

To: North Half Overstory Removal Project File

Background

This Supplemental Information Report (SIR) was prepared in response to public comments on the Environmental Assessment (EA) for the North Half Overstory Removal Project, which were received from August 29th through September 27th, 2002. On October 10, 2002, the Interdisciplinary Team of resource specialists for this project met to discuss the public comments. At the meeting, it was noted that some of the comments called for additional environmental effects analysis, and that this would best be documented as a supplement to the existing EA. This SIR was prepared to document these additional effects.

The remainder of public comments received that did not call for additional effects analysis are addressed in Appendix G of the Environmental Assessment for this project. The effects analysis described in this SIR is organized by subject matter.

Effects of Proposed Action and Alternatives on Stand 26, Compartment 69
Note: this stand is within an area proposed by the Vermont Wilderness Association (VWA) as a candidate for a National Recreation Area (NRA). The effects information below is in response to concerns raised that timber harvesting would negatively impact the area's potential as an NRA.

Direction on the development of National Recreation Areas is much less formal and prescribed than the direction for the inventory and evaluation of potential Wilderness areas. Once meeting some very general requirements, each NRA is then designated by very specific legislation that describes the details of how each individual area will be managed. Since the legislation is specific only to that NRA, each area can be very different from others. There is nothing in the overall direction that would dictate "no timber harvest" in all NRA's and there are examples around the country where timber harvest is deemed acceptable.

Since each designation is done separately, it is probable that the language for any new NRA's will not be exactly the same as the language contained in the 1984 Vermont Wilderness Act that created the White Rocks NRA (WRNRA). In fact, it may be very different depending on the public input and goals that would be established for any new areas.

In conclusion, the inclusion of one 28-acre unit for timber harvesting (Stand 69 within Compartment 26) would most likely not negatively impact this area's potential future designation as an NRA.

Effects of the Proposed Action and Alternatives on private lands and landowners
Note: concern was expressed that the EA did not address the effects of the proposed activities, including all alternatives, on private lands and private landowners, particularly those who would be granting access to the Forest Service to cross their lands. Described below (by resource area) is information about effects on private lands and landowners.

Threatened and Endangered Species:

Plants: This project would not impact TES plant species on private lands. There is no federally threatened or endangered plant species documented for the GMNF, and there is no evidence that that any occur on adjacent private lands.

Animals: Using landings on private land or using skid trails on private land to complete the proposed North Half OSR activities or their alternatives will have **no adverse effects** on the following T&E species:

Bald Eagle or their critical habitat.
Gray Wolf or their critical habitat.
Eastern Cougar or their critical habitat.
Indiana Bat or their critical habitat.
Canada Lynx or their critical habitat.

Bald eagle, gray wolf, eastern cougar, and Canada lynx are not known to occur or have critical habitat within these skid trails or landings on private lands. One female Indiana bat was captured in one of the landings proposed for the Compartment 65, Stand 20 of the Overstory Removal Project during the non-hibernation season. However, because the activities associated with the North Half Overstory Removal project will occur in the winter only (when the bats are hibernating), these activities will insure no adverse effects to Indiana bats.

Heritage: In those cases where the Forest proposes to cross private lands as part of this project, we will be using existing travel routes. No heritage resource sites have been identified adjacent to these routes. In any case, the actual use of these travelways would have no adverse effect on any Heritage Resources if they were present because the vehicles will not have a direct physical affect outside of the travelway of the road, nor is road construction proposed as part of the project.

Soil and Water: These access routes have been recently used to facilitate previous sales by the landowners and GMNF, and were well known by the specialists that visited them for the previous sale. Although not explicitly mentioned, the effects of using private roads for harvesting were considered when assessing the impact of harvesting on the soil

and water resources (see EA, pages 81, 88, and 94) and when discussing terms with the landowners. The impacts to soil and water would be minor. These roads are stable, show no signs of severe erosion or stream sedimentation, and have been used repeatedly in the past. Water control structures (water bars or culverts) would be in place prior to use, to control erosion.

Fisheries: Using private roads for harvesting to complete proposed North Half OSR activities or their alternatives will have no adverse effects on fisheries resources. These roads are stable and have been used repeatedly in the past. There are no signs that stream sedimentation or habitat degradation is occurring from these roads (see soil section above for additional information).

Landowners: All the landowners who live adjacent to the project areas were notified of the proposal. Any concerns raised were addressed in the EA as an issue, in Appendix A, or through follow-up phone calls. In addition, those landowners whom the Forest Service needed to obtain the necessary permits from to cross over their lands, have been contacted, are aware of the proposed activities, and have agreed to allow for the temporary crossings of their land.

Cumulative Effects

Note: the concern was raised that the cumulative effects sections in the EA only considered one current project (the Old Joe Timber Sale). Below is updated, more detailed cumulative effects information that includes other projects that we are aware of.

Recreation: All the proposed projects included in the most recent Schedule of Proposed Actions, dated 10/18/2002, were considered in combination with the North Half Overstory Removal project, for cumulative effects on recreation activities. Other foreseeable projects were also evaluated. Some young timber stands are under contract for Timber Stand Improvement (TSI) or site preparation have undergone prior NEPA analysis as part of past timber sales or included in the FY 00 TSI Project, Decision dated 8/15/2000.

More specifically, four proposed projects, the Appalachian Trail Relocation at Thundering Falls, Catamount Trail at Lincoln Gap, the Bloodroot Gap Trail Relocation, and the Corporation Brook Woods Road would not have cumulative effects in combination with the North Half Overstory Removal Project because none of these projects would result in closing trails. The TSI and site preparation work would not have cumulative effects to recreation because that work is not done during the winter logging period when the N ½ OSR stand would be harvested, it involves stands spread out over the landscape, few stands are operated at one time and trails would not be impacted.

Visuals: There are no adverse cumulative effects to the visual resources when considering the North Half Overstory Removal Project in combination with the projects listed in the October 2002 Schedule of Proposed Actions, or other projects including the Site Preparation and Timber Stand Improvement Projects ongoing or planned. The TSI projects are not large, would involve only thinning of young stands or working in

regenerated areas already impacted by harvest and analyzed for visual effects. In addition to the TSI projects, the other projects described in the Schedule of Proposed Actions are also scattered throughout the north half of the Forest, so the visual impacts would be dispersed and minor.

Threatened and Endangered Species (Plants): There are no federally threatened or endangered plant species documented for the GMNF or adjacent lands.

Regional Forester's Sensitive Species (Plants): The geographic scope for the analysis of effects for plants on the RFSS list varies from species to species and is defined separately for each species for which any effects may occur. The time frame for the scope of the analysis includes other ongoing activities, described below, and also encompasses the first cut in the shelterwood system of regeneration in these stands.

Other proposed projects that have documented occurrences or potential habitat of the same plants on the RFSS list as occur here, or will occur in the geographic vicinity of this project and at approximately the same time include: the Old Joe timber sale in the Chittenden Brook/Bingo Brook area, Catamount Trail extension in Lincoln, White River fish habitat restoration in Granville, sale of the "Low Cost" dwelling in Rochester, and Special Use Permits that will be issued for using FS roads to log on private land in the Chittenden and Ripton areas. While there are no known occurrences of plants on the RFSS list in the Old Joe project area, there is marginally good potential habitat for some of the same species there as in the North Half Overstory Removal, and this habitat may be impacted to some extent by individual and group tree selection harvests, and more substantially in the few small clear cuts. The only two plants on the RFSS list that are known to occur in any of the other project areas are butternut and summer sedge. In each place where either of these species occurs, mitigation is planned that will protect both the individual plants and their habitats. Although none of these proposed projects is expected to have more than a slight indirect impact on the Sensitive plants that occur there or have potential habitat there, this information is presented as the context for cumulative analysis for the plants or plant groups discussed below.

Butternut: Butternut trees are not rare in Vermont; thus, the geographic scope of analysis will be limited to the National Forest. Since mitigation requires that no butternut trees will be harvested as a part of this project, and habitat changes in all but the "no action" alternative will be minor and temporary (or may result in a slight improvement for seedlings and saplings, since they require light), and since the overall butternut decline is due to disease, not tree harvest or habitat destruction, as discussed in the Biological Evaluation (Appendix B of the EA), no cumulative effects to this species are expected as a result of this proposed projects or its alternatives, regardless of what other actions occur elsewhere.

Yellow lady's slippers, ginseng, and sweet-scented Joe-pye weed: Each of these three species is ranked as either demonstrably globally secure (G5), or apparently globally secure (G4), though perhaps locally rare.. None are listed as threatened or endangered either in the U. S. or in Vermont.

Yellow lady's slippers are uncommon in Vermont, but not rare. A number of populations have greater than 750 stems (Deller, unpublished thesis). Since the potential loss of one plant would be insignificant to the species at the state level, the geographic scope for the analysis of cumulative effects for this species will be defined more narrowly as the National Forest land within the state. There are at least three other small populations of yellow lady's slippers on the Forest, all in the same geographic region. Given that the one individual within the project area is not mature enough to be reproductive, it is not contributing genetic material to any other population on the GMNF. Since this one plant was discovered only after the initial harvest in this stand, we have no way of knowing whether or not there has been any change to it as a result of the initial harvest; in fact, we do not know whether it became established prior to or after the initial harvest. Thus, we are unable to take into account the effects of the initial harvest in predicting the cumulative effects of harvest on this plant. However, given the small "population" size, immaturity, and relative isolation of this one individual plant, if it is destroyed because of ineffective mitigation, or its habitat is more substantially impacted than expected, there will not likely be any cumulative effect on this species on GMNF.

Sweet-scented Joe-pye weed is rare in Vermont, and on the Forest it is known only from this geographic area. Thus, if mitigation measures were to fail, and this one population was destroyed, there could be an effect on viability either in Vermont or on the Forest; the geographic scale for this analysis could be defined at either level. However, this species has been present at this site since before the original cut, and monitoring data for the population shows an increase from two to 12 plants since then, suggesting that use of the skid road adjacent to this population did not result in any harm to this species, and there are not likely to be any cumulative effects as a result of both the original and the proposed harvests.

Ginseng is uncommon to rare in Vermont, is known from nine sites on the Forest, and probably occurs at other undiscovered sites. Given the small size (three plants) of the population in the project area, if mitigation measures were to fail and this one population was destroyed, the effects would be most notable at the level of the Forest rather than the state; thus, the geographic scale for this analysis will be defined as the GMNF. Since this tiny population was discovered only after the initial harvest in this stand, we have no way of knowing whether or not there has been any change to it as a result of the initial harvest; in fact, we do not know whether it became established prior to or after the initial harvest. Thus, we are unable to take into account the effects of the initial harvest in predicting the cumulative effects of harvest on these plants. We do, however, have monitoring data for a geographically close population of ginseng (elsewhere on Bryant Mountain, but not within the proposed project area) both before and after harvest that shows no loss of individuals. This apparent resilience suggests that the proposed project, which is expected to create only minor and temporary changes to habitat, is likely to have a minimal effect on this species. Given the small size of this ginseng population, if it were to be destroyed because of ineffective mitigation, or its habitat is more substantially impacted than expected, there would not likely be any cumulative effect on this species on GMNF.

Jacob's ladder: Since mitigation will occur to avoid the wetland where this species occurs, and its habitat is not expected to change, the proposed action and its alternatives are not likely to result in cumulative effects for these species, regardless of actions elsewhere.

Plants associated with wetlands that have potential habitat in the project area: Since mitigation will occur to avoid these wetlands, and their habitat is not expected to change, the proposed action and its alternatives are not likely to result in cumulative effects for these species, regardless of actions elsewhere.

Plants associated with some variant of northern hardwoods that have potential habitat in the project area: Northern hardwood forests are widespread in the state. The specific variants that provide habitat for these rare plants are less widespread, but not uncommon, and are found in more microsites than might be expected (for a more detailed discussion of this topic, see the EA for the TES amendment for the GMNF). The geographic scope of analysis for these species is, therefore, defined at the level of the National Forest. Since the proposed project and its alternatives (except the "no action" alternative) involve removal of overstory in stands where there are already dense saplings providing shade for these forest species, changes in habitat are expected to be minor and temporary. In addition, since other current and proposed actions are not expected to have much effect on the availability of this type of habitat, the proposed project is not likely to result in cumulative effects for these species, regardless of actions elsewhere.

Wildlife: All of the proposed projects included in the most recent Schedule of Proposed Actions, dated 10-18-02, planned and ongoing TSI or site preparation projects were evaluated for cumulative effects on wildlife in combination with the North Half Overstory Removal Project. No cumulative negative effects to Threatened, Endangered, or Sensitive Species are expected from project 4, the Catamount Trail Relocation, project 5, the White River habitat restoration project, project 13, the Corporation Brook woods road project, project 15, the Bingo dispersed camping project, project 16, the Facility Disposal, project 17, the Old Joe Timber Sale, project 20, the Bloodroot Gap trail relocation, or current or planned TSI projects. Project 5, the White River habitat restoration project may improve foraging conditions for Indiana bats and other woodland bats because hatches of insects would have increased potential habitat where woody debris structures are placed within or adjacent to the White River. The cumulative effects to MIS species of these additional projects will remain the same as was written in the North Half OSR EA. MIS species utilizing mature habitats will benefit from the activities occurring on the Forest because projects are small and limited or no disturbance is occurring, and the forest continues to become more mature. MIS species that require young forests, non-forest habitats or are disturbance dependent will continue to be affected by the same factors that are beneficial to mature forest species.

Anticipating that trail use on the relocation sites will remain at the current level of activity, these additional projects pose no additional cumulative effects to reclusive species because of these species ability to avoid contact with humans. Since goshawks

can immigrate into these project areas after project implementation, the same mitigation measures would be followed that are listed in Appendix C, p. C-4-5 of the Revised Old Joe Environmental Assessment. If an occupied nest is located a 660-foot radius of unaltered habitat around the nest site will be established and an additional 660 buffer area will be identified. Cumulative effects to Neotropical Migratory and Area Sensitive Birds would be the same as described on p. 58-60 of the North Half OSR EA. See cumulative effects for Deer Wintering Areas on p. 60-61 of the OSR EA and see p. 63 of the North Half OSR EA for Snags and Course Woody Debris cumulative effects.

Heritage: Effects on heritage sites are very localized; that is, it takes a physical action in the immediate vicinity to create a disturbance (an adverse effect). Indirect effects may sometimes occur from, for example, downslope erosion in direct proximity of a site, or the introduction of new transportation networks that facilitate public access to site areas.

There would be no cumulative direct effects from the other anticipated projects in this area (the proposed Old Joe Timber Sale), nor any projects listed in current Schedule of Proposed Actions (October 1-December 31,2002), or ongoing or planned TSI and site preparation projects in conjunction with the North Half Overstory Removal Project because Forest Plan Standards and Guidelines provide for the protection of individual sites at the project level. Nor would there be cumulative indirect effects to any Heritage Resources because these projects or possible changes in management designations would not introduce the conditions contributing to indirect effects.

Therefore, based on past, present and anticipated actions, there should be no cumulative affect to any Heritage sites.

Soil and Water: Proposed projects on the north half of the Forest listed in the Green Mountain National Forest Schedule of Proposed Actions, dated 10/01/2002, and other foreseeable projects as listed above were evaluated, in combination with the North Half Overstory Removal Project for cumulative effects on the soil and water resources. Several projects are specifically designed to improve the condition of the soil and water resources by reducing erosion and sedimentation associated with roads or trails, by removing trails from floodplains, or by improving water quality and riparian area habitat components. These projects are: #5 – White River Restoration (Lower Granville), #13 – Corporation Brook Woods Road Project, #15 - Bingo Concentrated Use Project, and #20 – Bloodroot Gap Trail Relocation. These projects will have a net positive effect on the soils and water resources.

One project, #16 – the Low-cost Dwelling Facility Disposal (sale of a FS-owned house and associated small land parcel) is expected to have no effect on the soil and water resources, because we anticipate little change in the land use after the house and property is sold.

Five projects are expected to have minor adverse effects on the soil and water resources. Two of these projects - #6 – Churchill Access Road Special Use Permit, and #7 – Chittenden Access Road Easements, will provide access to privately owned lands via

existing National Forest roads. The access will be used to harvest trees. The impacts of road use are expected to be low because erosion and sediment control will be required. The impact of harvesting trees is expected to have minor effects on the soil and water resources. Most harvesting on private lands is done according to AMPs (Acceptable Management Practices), therein minimizing erosion and sedimentation. The resource effects of one project, #17 – the Old Joe Sale, were disclosed in the document entitled, "Revised Environmental Assessment for the Old Joe Project, May 2002", completed by the USDA-Forest Service. This tree harvesting and fish habitat improvement project will have minimal soil and water effects because Forest Plan S&Gs will be implemented, along with several special mitigation measures designed to protect the resources. The fish habitat improvement part of this project will actually improve stream condition through the addition of large woody debris, a natural stream component currently missing.

In the future we anticipate a timber and vegetation management project in the Town of Goshen, in the Dutton Brook area, along with restoration of some of the Bingo Brook dispersed campsites. Though there is not much detail about these proposals as this time, it is anticipated that they would occur along with the TSI and site preparation projects discussed above and other watershed improvement projects. Given this information and considering the distance between projects, timing, season of implementation, lack of soil disturbance with TSI and site preparation in combination with other actions, there are no changes to the soil & water cumulative effect analysis. This is because the cumulative impacts of these additional projects would still be minor.

The last two projects, #4 – Catamount Trail, and #19 Appalachian Trail Relocations Project consist of new trail construction (and some relocation of existing trail for project #19). Erosion and sedimentation are expected to be minimal on both projects because they are trail projects (as opposed to road projects which have higher impacts), and S&Gs and special mitigation measures designed to protect the resources will be followed.

The cumulative effects on the soil and water resources of implementing the North Half Overstory Removal Project, TSI and Site preparation projects, plus all projects listed in the 10/01/2002 Schedule of Proposed Actions, is minor. This is because individual project effects range from beneficial to minor adverse effects. Additionally, similar combinations of projects have been implemented over the last decade without large cumulative effects. As stated in the EA (see p.72) the activities having the greatest impacts to watersheds on the north half of the Forest are activities that occur on private land, including road construction and maintenance, home construction, land clearing, agriculture, and other activities that result in loss of riparian areas. Recent monitoring shows past and present harvesting has had (overall) minor impacts to soil and water. Timber stand improvements or site preparation do not involve soil disturbance and would also have little to no impacts.

Fisheries: All proposed projects included in the 10/18/02 Schedule of Proposed Actions in combination with the North Half Overstory Removal Project and were evaluated for cumulative effects on fisheries resources. No cumulative negative effects to fisheries

resources are expected from Project 16, the Facility Disposal project because we anticipate minimal change in the land use after the house and property is sold.

Several projects are specifically designed to improve the condition of fisheries resources by reducing stream sedimentation and habitat embeddedness (fine sediment/sand/silt that settles in spaces between rocks on the stream bottom) often associated with erosion from roads and trails, and improve fish spawning and rearing habitat by removing trails from floodplains, or by improving water quality, stream and riparian habitat components. These projects are: project 5, the White River Habitat Restoration, project 13, Corporation Woods Road, project 15, Bingo Concentrated Use Project, and project 20, Blood Gap Trail Relocation. These projects will have a positive effect on fisheries resources.

Several projects are expected to have only minor adverse effects on fisheries resources. Project 6 and Project 7 will provide access to private land via existing FS roads. The resource impacts associated with this activity will be minor because state regulations such as AMP's affecting private lands will minimize stream sedimentation and stream habitat embeddedness. Additionally, the fisheries resource effects of project 17, Old Joe Sale, were disclosed in the Revised Environmental Assessment in May 2002. Tree harvesting will have minimal fisheries effects because Forest Plan S&G's will be implemented, along with special mitigation measures designed to protect the resource. As stated above, the fish/stream habitat improvement part of this project will improve stream conditions for aquatic biota through the addition of trees and woody debris.

In the future we anticipate vegetation management and possibly stream habitat improvements in the Dutton Brook Area, Goshen, VT. Given this information and considering the location, timing, season of implementation, lack of stream disturbance with TSI and site preparation in combination with other actions discussed above, there are no changes to fisheries cumulative effect analysis. This is because cumulative effects of these additional projects would still be minor.

The cumulative effect on fisheries resources of implementing the North Half Overstory Removal Project, projects listed in the Schedule of Proposed Actions and other projects described above is minor. This is because some projects have benefits to fisheries resources and others would have resource protection provided by Forest Plan S&G's and mitigation measures.

Silviculture And Oak Management: As with the above resources, the additional foreseeable projects of the SPA were reviewed and evaluated in conjunction with the North Half Overstory Removal Project for cumulative effects on the practice of silviculture and oak management.

In addition, preliminary planning for the Dutton Brook II proposal located in the town of Goshen, is planned to undergo NEPA analysis in the spring or summer of 2003. We are still shaping this proposal. It is not complete enough at this time for public scoping. Implementation of Timber Stand Improvement and site preparation work already under

contract, and NEPA analysis for the FY 2003 TSI project are also foreseeable actions and they were considered.

With implementation of the SPA projects, current and future planned TSI, site preparation projects and the anticipated Dutton Brook II proposal; there would be no additional cumulative effects on the practice of silviculture and oak management for the N ½ project. This is because silviculture, including oak management would still occur on lands included in the N ½ OSR project.

Because the N ½ OSR project would not include two stands that fall within the VWA proposal for Wilderness, there would be less cumulative effects on vegetation resources, sights, sounds and effects from logging on the existing Breadloaf Wilderness or use of the Forest transportation system. This is also because there are no other timber sales located or planned adjacent to Breadloaf Wilderness at this time.

Timber stand improvement projects already through NEPA analysis and under contract are occurring in Compartment 46 stands 11,19 and 21. These projects involve pre-commercial thinning of young hardwood and softwood trees and have been evaluated by the FY 00 TSI Project. Additional site preparation and TSI contracts under contract will occur but will not have cumulative effects because they will occur at different times of the year than the N ½ OSR harvests, and they will not involve logging equipment or ground disturbance. We have looked at the N ½ project along with these additional foreseeable actions and find no cumulative effects on the practice of silviculture and oak management.

A table and map that lists stands that will be considered for NFMA/ NEPA analysis for a FY 2003 Timber Stand Improvement project is included in the project file. This list has not gone through initial specialist review, NFMA analysis or public scoping at this time but is a potential list of stands that could be involved.

This future TSI work would not have any cumulative effects on the Proposed Action and its alternatives. The work does not involve logging or logging equipment and would have little effect on area resources.

Mitigation Measures

Note: the following mitigation measures were added to address public comment/concerns.

Soil, Water and Visual Resources: Two mitigation measures have been added to provide optimum protection for the soil, water and visual resources in Compartment 150, stand 3. First, the section of skid trail inside the stream filterstrip (see EA, page 31, bullet 6) would be seeded following use if soil is exposed. This would minimize the risk of erosion and stream sedimentation. Second, the landing for stand 3 will be seeded each spring if the stand requires more than one winter season to complete. This will minimize the risk of erosion and stream sedimentation, and soften the visual impact of the landing as seen from Route 100.

Goshawk: Those sites that are deemed suitable for nesting in the project area would be surveyed at the appropriate season for nesting goshawks. If an occupied nest is located, follow procedures in the Forest Plan, developed cooperatively with the U.S. Fish and Wildlife Service calling for a six hundred and sixty foot radius zone of unaltered habitat around the nest site with an additional six hundred and sixty foot buffer area.

Determination

The effects analysis contained in this Supplemental Information Report provides more detail and clarification, but it is not critical to the analysis supporting the North Half Overstory Removal EA. It does not change the circumstances relating to the environmental impacts, including the Finding of No Significant Impact determination described in the Decision Notice for the North Half Overstory Removal EA.

STEPHEN J. KIMBALL
District Ranger **Date: _____**

Attachment 1

Vermont Department of Agriculture, Food & Markets
Quarantine #3 - Noxious Weeds

Section I: Statement of Concerns

Whereas, the Vermont Department of Agriculture, Food & Markets having found that certain noxious weeds out compete and displace plants in natural ecosystems and managed lands; and

Whereas, competition and displacement of plants by certain noxious weeds has significant environmental, agricultural and economic impacts; and

Whereas, it has been determined to be in the best interest of the State of Vermont to regulate the importation, movement, sale, possession, cultivation and / or distribution of certain noxious weeds:

Therefore, the State of Vermont is hereby establishing this noxious weed quarantine regulation by the authority of 6 V.S.A., Chapter 84, Pest Survey, Detection and Management.

Section II: Definitions

"Class A Noxious Weed" means any noxious weed on the Federal Noxious Weed List (7 C.F.R. 360.200), or any noxious weed that is not native to the State, not currently known to occur in the State, and poses a serious threat to the State.

"Class B Noxious Weed" means any noxious weed that is not native to the state, is of limited distribution statewide, and poses a serious threat to the State, or any other designated noxious weed being managed to reduce its occurrence and impact in the State.

"Commissioner" means the Commissioner of Agriculture, Food & Markets, or his or her designee.

"Noxious Weed" means any plant in any stage of development, including parasitic plants whose presence whether direct or indirect, is detrimental to the environment, crops or other desirable plants, livestock, land, or other property, or is injurious to the public health.

"Plant and Plant Products" means trees, shrubs, and vines; forage, fiber, and cereal plants; cuttings, grafts, scions, buds and lumber; fruit, vegetables, roots, bulbs, seeds and wood; and all other plants, parts of plants, and plant products.

"Possession" means to grow, manage or cultivate through planting, pruning, watering, fertilization, weeding, propagation, or any other means that promotes the growth of the

noxious weed. This does not include the incidental occurrence of a noxious weed on wild or managed land.

Section III: Designation as a Noxious Weed

(A) The following conditions shall be met for a plant or plant product to be designated as a Class A or B Noxious Weed:

(1) As determined by a pest risk assessment, a quarantined noxious weed must pose an actual or anticipated threat to a substantial agricultural, forestry or environmental interest and / or the general public.

(2) Establishment of a quarantine for a specified noxious weed is likely to contribute to the objective of preventing introduction or for limiting the spread and / or severity of the noxious weeds impact to the agricultural, forestry or environmental interest.

(3) No substitute or alternative mitigating action will accomplish the same pest prevention purpose.

(4) The economic and/or environmental benefits of quarantining a specified noxious weed outweigh the economic and/or environmental benefits associated with the noxious weed.

(B) The following biological factors shall be used to evaluate whether or not a plant or plant product has satisfied the conditions for designation as a Class A or Class B Noxious Weed.

(1) Native origin of the plant;
(2) Known distribution;
(3) Mechanism and potential for spread to and within Vermont;
(4) Past, current and potential environmental, economic and human health impacts;
(5) Feasibility of control and spread prevention;
(6) Regional and national perspective;
(7) Designation as a federal noxious weed; and / or
(8) Other pertinent factors.

(C) Designation as a Class A or Class B Noxious Weed shall occur through the Administrative Rule procedure as outlined in 3 V.S.A., Chapter 25.

Section IV: Designated Noxious Weeds

(A) Class A Noxious Weeds.

(1) All weeds listed in 7 C.F.R. 360.200 as amended, which is hereby incorporated by reference including subsequent amendments and editions.

(2) *Ailanthus altissima*	(tree-of-heaven)
(3) *Cabomba caroliniana*	(fanwort)
(4) *Egeria densa*	(Brazalian elodea)
(5) *Hydrilla verticillata*	(hydrilla)
(6) *Hygrophila polysperma* (Roxb.) T. Anderson	(E. Indian hygrophila)
(7) *Myriophyllum aquaticum* (Vell.) Verdc.	(Parrot feather)
(8) *Myriophyllum heterophyllum*	(variable-leaved milfoil)
(9) *Salvinia auriculata*	(giant salvinia)
(10) *Salvinia biloba*	(giant salvinia)
(11) *Salvinia herzogii*	(giant salvinia)
(12) *Salvinia molesta*	(giant salvinia)
(13) *Vincetoxicum hirundinaria* Medikus.	(pale swallow-wort)

(B) Class B Noxious Weeds.

(1) *Aegopodium podagraria* L.	(goutweed)
(2) *Alliaria petiolata* (*A. officinalis*)	(garlic mustard)
(3) *Butomus umbellatus*	(flowering rush)
(4) *Celastrus orbiculatus* Thunb.	(Oriental bittersweet)
(5) *Fallopia japonica* (Polygonum cuspidatum)	(Japanese knotweed)
(6) *Hydrocharis morsus-ranae* L.	(frogbit)
(7) *Iris pseudoacorus* L.	(yellow flag iris)
(8) *Lonicera x bella*	(Bell honeysuckle)
(9) *Lonicera japonica*	(Japanese honeysuckle)
(10) *Lonicera maackii*	(Amur honeysuckle)
(11) *Lonicera morrowii*	(Morrow honeysuckle)
(12) *Lonicera tatarica*	(Tartarian honeysuckle)
(13) *Lythrum salicaria*	(purple loosestrife)
(14) *Myriophyllum spicatum*	(Eurasian watermilfoil)
(15) *Nymphoides peltata* (Gmel.) Ktze.	(yellow floating heart)
(16) *Phragmites australis*	(common reed)
(17) *Potamogeton crispus* L.	(curly leaf pondweed)
(18) *Rhamnus cathartica*	(common buckthorn)
(19) *Rhamnus frangula*	(glossy buckthorn)
(20) *Trapa natans* L.	(water chestnut)
(21) *Vincetoxicum nigrum* L.	(black swallow-wort)

Section V: Prohibitions

(A) The movement, sale, possession, cultivation, and / or distribution of Class A Noxious Weeds designated in Section IV of this quarantine regulation is prohibited.

(B) The movement, sale, and / or distribution of Class B Noxious Weeds designated in Section IV of this quarantine regulation is prohibited.

(C) Violation of any of the prohibitions listed in Section V of this regulation may result in:

(1) The issuance of cease and desist orders; and / or,
(2) Temporary or permanent injunctions; and / or,
(3) Administrative penalties not to exceed $1,000 per violations, as specified in 6 V.S.A., Chapter 84, Sections 1037 and 1038.

Section VI: Exemptions

(A) Scientific and educational exemptions may be granted by the Commissioner to allow for the movement, possession and field experimentation of noxious weeds for scientific and educational purposes under such conditions as may be prescribed by the commissioner. When granting exemptions, the commissioner shall take into consideration both the value of the scientific or education purpose and the risk to Vermont's environment, economy and citizens.

(B) Transportation of any Class A or B Noxious weed on any road or highway of the state is exempt if any of the following is true:

(1) It is for disposal as part of a management control activity; or

(2) It is for the purpose of identifying a species or reporting the presence of a species, and the Class A or B Noxious weed is in a sealed container; or

(C) Preserved specimens in the form of herbaria or other preservation means are not subject to this regulation.