

ACT 250 and TRAILS QUESTIONS FOR COMMENT

*Thank you for taking the time to complete this survey. Please only fill out **one survey** for your organization.*

Act 250, Vermont's land Use and development law, was passed in 1970 to mitigate the effects of certain developments and subdivisions through a permitting process that addresses the environmental and community impacts of projects that exceed a certain threshold. Currently, recreational trails may be subject to Act 250 and a variety of permits issued by the Department of Environmental Conservation.

With respect to Act 250 only, the threshold for jurisdiction (meaning that a project will need an Act 250 permit) depends on certain factors:

- 1) If the proposed trail is part of the Vermont Trail System, the key question is how much ground disturbance will occur as part of the project (10 acres of disturbance or more is the threshold)*
- 2) If the proposed trail is not part of the Vermont Trails System, jurisdiction is triggered only if the trail is commercial, and depending on the size of the tract (or tracts) where the trail will be located*
- 3) Jurisdiction over trails may also be triggered if the proposed trail is considered to be a "material change" to an already existing Act 250 permitted project.*

The Vermont Natural Resources Board and the Vermont Department of Forests, Parks and Recreation are seeking input concerning state regulation of trails, and we hope you will take the time to complete this brief survey. Your answers will be collated into a report to [The Commission on Act 250: the Next 50 Years](#) for consideration.

PLEASE RETURN THIS SURVEY NO LATER THAN 5 PM ON SEPTEMBER 17TH, 2018

Please indicate your name, name of organization, and contact information (including email address).

Tracy Ostler, Executive Director, Green Mountain Horse Association, Tracy@gmhainc.org, 802-457-1509.

Is your entity a member of the Vermont Trails System?

No.

Have you experienced any challenges in obtaining Act 250 permits for trails (please explain)? Please limit your response to personal experiences that you or your organization have experienced.

No.

If you or your organization has been through the Act 250 process with respect to trails, please recommend any changes including, but not limited to the following topics:

N/A, as our organization has not been through the process.

How to make the process more efficient

How to make the process a better fit for the unique development aspects of trails

Are Act 250 jurisdictional triggers with respect to trails clear?

No because it's unclear where trails fall in the ACT 250 DOES REGULATE AND CONTROL list. If trails fall under number 2: "The construction of improvements for any commercial or industrial purpose..." further defining the terms "improvements," "commercial," and "industrial" would be helpful to the reader.

If not, how should the jurisdictional triggers be clarified?

In reviewing the triggers, terms like "project" and "material change" are not well defined which leaves them open to the subjective opinions of both the trail builder and the district coordinators.

In our experience, trail systems strive to make use of existing trails (e.g. old logging roads and abandoned roadways). Rehabilitating these existing trails for low impact recreational use should not constitute a material change triggering Act 250.

What are the strengths of Act 250's regulation of trails?

Overall, Act 250's regulation of water pollution and aesthetics, scenic and natural beauty are strengths that seem to specifically apply to proper trail maintenance and use. However, these criteria are also covered by other types of permitting (e.g. storm water, wetlands, etc.).

How is Act 250 beneficial to the environmental quality of the state with respect to the regulation of trails?

As above, Act 250's regulation of development and subdivision is beneficial to the overall environmental quality of the state. The bigger question is do trails qualify as "development and subdivision" as defined in the statute. Does the improvement of an existing logging trail or abandoned roadway by an organization for low impact recreational use trigger the need for an Act 250 permit, especially if other types of permits (e.g. storm water, wetlands, etc.) have been obtained.

Which [Act 250 criteria](#) are most relevant with respect to the regulation of trails (please explain)?

It seems of the 10 Act 250 criteria, Criterion 1 as it pertains to water and Criterion 8 are the most relevant. Water is very important, and as discussed above these criteria are covered by other types of permitting.

Which [Act 250 criteria](#) are least relevant with respect to the regulation of trail projects (please explain)?

The 10 Criteria are “the specific standards that the District Environmental Commission must use to evaluate every development and subdivision...” Without clear definitions, it’s difficult to classify trail projects as either developments or subdivisions. This leaves the door open to subjectivity and inconsistent application of the rule as it was intended.

Should all trail projects be exempt from Act 250 review? If so, what makes development of recreational trail projects different from other development that is subject to Act 250?

Per the State of Vermont’s Natural Resources Board, “Act 250 was enacted by the Vermont legislature in 1970 to protect the environment in balance with sustainable development. The law sets goals and priorities for environmental and scenic protections and is responsible for helping Vermont retain its rural character, preserve the natural environment and support the state's environmental diversity - which foster distinctive, attractive communities with a strong sense of place.”

Without clear definitions for development and subdivision, it’s impossible to completely answer this question. As stated above, most, if not all trail systems are rehabilitated roadways and logging trails. They are not development in the common sense. It seems that the State of Vermont may want to focus its Act 250 resources on development and subdivisions that more closely align with the objectives of Act 250. Trail systems appear to be directly in line with Act 250’s goals of retaining Vermont’s rural character, preserving the natural environment and allowing people to explore the state’s environmental diversity without subdividing and developing it. Trails create a sense of place that can be shared by everyone.

Should some trail projects be exempt from Act 250 review?

If yes, please explain which types of trail projects should be exempt, and why.

Again, development and subdivision must be clearly defined and applied consistently across all developments and subdivisions. Once defined, and understood by all parties, if building and/or connecting existing trails falls under the definition Act 250 should be involved. A trail system idea should not be abandoned because Act 250 looms large over the project.

Do you have any recommendations for an alternative regulatory scheme for trail projects in the State of Vermont? Please share your thoughts.

It makes sense to have one clearing house for groups and individuals who are working on trails. The keys to success are efficiency and consistency.

Should trails be subject to some sort of “general permit”?

Trail groups, like the Vermont Association of Snow Travelers (VAST), already participate in a permitting process. Would a general permit be in addition or take the place of current permit requirements?

If so, what criteria should the general permit cover and how should terms of the general permit be enforced?

This depends on whether the general permit replaces current requirements or is in addition to current requirements.

Do you have any ideas about a possible trail development oversight program managed under the Agency of Natural Resources? Please explain.

During a recent trail meeting hosted by VAST, it was clear there is great enthusiasm and support for a robust trail system in Vermont. These groups are made up of passionate individuals who take the work seriously and are dedicated to preserving Vermont’s natural resources. It makes more sense to harness this energy and passion and utilize their standards than it does to spend resources on reinventing the wheel and developing another oversight agency.