

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

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

Michael DeBonis
Executive Director
The Green Mountain Club
4711 Waterbury-Stowe Road
Waterbury Center, VT 05677
phone: (802) 241-8212 (direct line)
cell: (802) 373-5676
fax: (802) 244-5867
mdebonis@greenmountainclub.org
www.greenmountainclub.org

2. Is your entity a member of the Vermont Trails System?

Yes

3. 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.

Since 1910, GMC had a vision for the Long Trail to cross the Winooski River Valley. The plan was ever changing because of road and railroad crossings and land acquisition. Ultimately, the plan we could implement did not reach the Act 250 (for trails within VTS) threshold of 10 acres of disturbance. What if Act 250 considered the Plan a trail from Massachusetts to Canada that included building a bridge across the Winooski. That consideration would significantly impact Act 250's jurisdiction and the administrative process for the permittee.

4. 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:
 - a. How to make the process more efficient
 - b. How to make the process a better fit for the unique development aspects of trails

Clarity on what constitutes a project and what constitutes a plan for determining jurisdiction
Consistent application of Act 250 criteria across jurisdictions.

Cumulative Impact and what constitutes a project for determining jurisdiction as it relates to trail systems is an issue. Does Act 250 encumber a trail system forever or is it applied on a project by project basis?

5. Are Act 250 jurisdictional triggers with respect to trails clear? No
 - a. If not, how should the jurisdictional triggers be clarified?

The trigger for Act 250 jurisdiction for VTS trails, physical disturbance of 10 or more acres of land, including land incident to the use of the project seems arbitrary. Clarify why this level of disturbance for trails is used versus another level.

To reduce confusion, ensure that Act 250 jurisdictional rulings on the 10 acres of disturbance rule are applied consistently from district to district.

Act 250 does not provide a clear definition of what lands are included in a single project, as opposed to separate trail networks joined by connecting or spur trails.

There are other ways of viewing projects both with Rule 70 for Utilities and clearly defined road projects. Consider an alternate way of considering trail projects that are part of a trail system.

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

Act 250 regulates development of commercial trail projects. Act 250 regulates trail development at a scale and intensity that could have significant social and environmental impacts.

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

Act 250 regulates development of commercial trail projects. Act 250 regulates trail development at a scale and intensity that could have significant social and environmental impacts.

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

- 1 – impact to streams and wetlands
- 4 – erosion caused by trail development and use
- 8 – impact on natural areas and wildlife habitat
- 10- - conformance with local and regional plans

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

- 2 - this criterion seems more aligned with traditional development
- 3 - this criterion seems more aligned with traditional development
- 5 – this criterion seems more aligned with traditional development
- 6 - this criterion seems more aligned with traditional development
- 7 – trail development should be in line with local plans and capacities
- 9 – this criterion seems more aligned with traditional development.

10. 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?

No

11. Should some trail projects be exempt from Act 250 review?

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

Yes, under certain conditions

Trail development and maintenance for trails that are part of the Vermont Trail System (VTS) could be exempt, where the project proponent can meet certain criteria. For example:

- complies with trail development/maintenance standards;
- is consistent with town and regional planning documents;
- has landowner consent to use land for trail development and maintenance; and
- meets state and federal regulatory requirements.

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

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

Consider an alternate regulatory scheme for trails that are part of the Vermont Trail System (VTS), where the project proponent can meet certain criteria. For example:

- complies with trail development/maintenance standards;
 - is consistent with town and regional planning documents;
 - has landowner consent to use land for trail development and maintenance; and
 - meets state and federal regulatory requirements.
- b. If so, what criteria should the general permit cover and how should terms of the general permit be enforced?
 - c. Do you have any ideas about a possible trail development oversight program managed under the Agency of Natural Resources? Please explain.

The VTS has a process in place for evaluating trails for inclusion in VTS, including a review committee. The committee is appointed by the Commissioner of FPR and has representatives from FPR and the VT Trails and Greenways Council. Perhaps, this committee could be utilized to provide oversight of trails within the VTS.

Similar to best management practices for water quality, the Agency could compile existing trail development and maintenance standards and apply these to trail projects under the VTS. The standards and systems are largely in place and the Agency with support of the committee could be charged with review, approval, and enforcement.