

## **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 17<sup>TH</sup>, 2018**

1. Please indicate your name, name of organization, and contact information (including email address). **Vermont Horse Council, Jean Audet <[jean.audet4@gmail.com](mailto:jean.audet4@gmail.com)>**
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. **The Vermont Horse Council has had limited experience with building trails but some our members have had issues with the Act 250 process when working on maintaining trails.**
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 **1. Define a "project" "commercial" and "material change" more clearly so that they apply to trails; 2. synchronize understanding and application of definitions across the districts - right now there**

is inconsistency in how they are applied; 3. clarify how you will handle trail projects that cross property boundaries; 4. allow a simple definition for a trail project that does not include existing or abutting trails in a given network. 5. recognize that there is a difference between a public trail network and a commercial outdoor recreation business - streamline the process for the former while maintaining protections for the latter.

- b. How to make the process a better fit for the unique development aspects of trails  
See above
5. Are Act 250 jurisdictional triggers with respect to trails clear? No - see above.
  - a. If not, how should the jurisdictional triggers be clarified? See above.
6. What are the strengths of Act 250's regulation of trails? It is good to have a means for review of environmental impacts of trails that reaches across both the private and public sectors. It is good for there to be a mechanism for community input, particularly for large, commercial projects.
7. How is Act 250 beneficial to the environmental quality of the state with respect to the regulation of trails? Regulation is important for large projects and should help to protect the environment if the permitting process were more suited to trail construction.
8. Which Act 250 criteria are most relevant with respect to the regulation of trails (please explain)? 1 through 5, and 8 primarily. Also 9 A-C. A large trail project will impact most of those criteria. A smaller project will probably have very little impact on any of them as compared to a traditional development or subdivision.
9. Which Act 250 criteria are least relevant with respect to the regulation of trail projects (please explain)? All of the other criteria.
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? Not all, but most. I think it is important to clarify trail construction-specific triggers. A large commercial project, for example a network of mountain bike trails on an old ski area, should certainly be reviewed. Anything that involves buildings or other significant structures should be reviewed. It seems that special exceptions are made for agricultural fairs, composting facilities, etc. in the law. Why not healthy outdoor trail recreation?
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. We believe that municipal or other publicly owned property should be exempt - these entities typically have their own permitting processes that are more than sufficient. Private landowners and conservation organizations who want to make their land available for public trails should also be exempt. Land sharing should be encouraged. The trigger for jurisdiction on trails should perhaps not be size of acreage or length of trails, but instead be related to construction and facilities - buildings, parking lots, etc.

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”? For public lands, yes. For private lands, no, unless they are for commercial purposes.
  - b. If so, what criteria should the general permit cover and how should terms of the general permit be enforced? I think it is reasonable to ask that planned trails show how they will affect the environment - soils, water, wetlands, wildlife habitats, etc. It is reasonable to ask that they be built to sustainable standards. It is reasonable to ask that access/parking be adequate and safe. Enforcement will depend on who is obtaining the permit.
  - c. Do you have any ideas about a possible trail development oversight program managed under the Agency of Natural Resources? Please explain. We like the idea of a filing process for trail projects where a standard, comprehensive form is completed and submitted to ANR. These can be reviewed and can trigger an audit if ANR sees any areas for concern.

We applaud Vermont’s concern for environmental preservation. That’s what makes it such a great place to work and play. Act 250 is a good safeguard for our environment and communities, but it is not well suited to the process of trail building, which doesn’t easily fit into the category of “development.” It should be in the interests of the State to encourage outdoor recreation. An unclear, unfriendly permitting process discourages that important economic driver for our state. It also may make improper and unregulated trail building more common. We would like to see a process that is more local, welcoming, and clear.