

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).
RJ Thompson, Executive Director, Vermont Huts Association, 802-798-3003 ext. 1, rj@vermonthuts.org
2. Is your entity a member of the Vermont Trails System?
No, though we collaborate with many organizations that are.
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.
No.
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.
- c. Are Act 250 jurisdictional triggers with respect to trails clear? If not, how should the jurisdictional triggers be clarified?

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

The Act seems popular among members of the public who might otherwise not feel they have a voice in the regulation of Act 250 projects. Adjoining neighbors who fear increased noise or traffic could be an example of this type of stakeholder. That said, there should be a limit on how much one person or party can appeal a decision.

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

Existing permitting (stormwater, wetlands, etc.) and review for trails have done a fine job of ensuring environmental protection, along with the ongoing and culturally engrained commitment to environmental quality in the organizations that maintain the trail system. For trails, Act 250 seems to be a redundant layer of compliance.

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

See question 6.

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

See Act 47 document, p. 5, 3A: “The purpose of Act 250 jurisdictional threshold is to focus Act 250 review on projects that have the greatest potential for significant impact due to their size or scope, or where the forms of adequate regulatory review do not exist.” We do not believe the Vermont trail system constitutes “greatest potential for significant impact” on environmental quality, and an adequate layer of regulatory review already exists in the permitting process.

9. 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, but there should be a clear and logical threshold for trigger and a clear understanding of when the Act should not be triggered.

10. 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 do not see why there should be an Act 250 trigger every time a section of new trail connects two existing sections.

11. 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”?

Trails are already permitted as mentioned in question #6. Also, the VSTS already has standards and requirements for trails to be considered part of it.

- 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.