

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).

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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.

It is too much work, a cumbersome experience.

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
Design a special application for trails
 - b. How to make the process a better fit for the unique development aspects of trails
Trails should have a check list that would trigger Act 250 that truly assesses whether there are notable impacts – for instance single track trails for hiking on minimally disturbed soils (walking through the woods on a marked trail) should not have to go through Act 250.
5. Are Act 250 jurisdictional triggers with respect to trails clear?
No
 - a. If not, how should the jurisdictional triggers be clarified?
The different Act 250 districts have their own way of dealing with trails. Trails on minimally disturbed soils, using existing forest roads or ancient roads, railroad beds, etc. should not trigger Act 250.
New trails added to a previous Act 250 trail project that are limited to minimally disturbed soils, existing forest roads, ancient roads, railroad beds, etc. should not have to go through the Act 250 process.
6. What are the strengths of Act 250's regulation of trails?
This is unclear to me, Act 250 is a barrier.
7. How is Act 250 beneficial to the environmental quality of the state with respect to the regulation of trails?
This is unclear to me. Trails make it difficult to develop land, they serve as a restraint to land development. Trails should be encouraged as another tool to maintain large forest blocks and undeveloped land..
8. Which [Act 250 criteria](#) are most relevant with respect to the regulation of trails (please explain)?
If the trail is on minimally disturbed soil the only really relevant criteria would have to do with impacts to wildlife and/or endangered/rare species and correctly installed stream crossings. Perhaps a certification form could be reviewed by Dept of Fish and Wildlife to get approval for a trail based on this criteria without a full Act 250 review.
9. Which [Act 250 criteria](#) are least relevant with respect to the regulation of trail projects (please explain)?
For trails on minimally disturbed soils, old forest roads, ancient roads, railroad beds, etc. essentially all the criteria are of little relevance. And whatever impacts there might be are mitigated by the likely restraints on development in the trail area.
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?
In most cases, yes. When trails are graded and surfaced with gravel or other materials, true large scale construction projects, 2500 feet elevation, there could

be triggers for Act 250.

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. Qualified organizations, perhaps members of the Vermont Trails System should be pre-qualified to create trail projects. A “best management practices” guideline could be developed and the trails group suspended from the Vermont Trails System if they fail to follow trail construction guidelines.

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

See my answer to Number 11.

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

Perhaps, this could be similar to my answer to Number 11.

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

Criteria would included generally accepted trail construction best management practices, these could be reviewed and compiled to create a trail construction guideline to follow.

Trail users could report failing trails to whatever entity is in charge of permitting. There could be remediation guidelines that need to be followed and verified to keep the trail permit valid when there is an impaired trail.

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

Keep it simple. Trail users do not want to use failing or impaired trails and trail organizations have their reputations tied to how well they maintain their trails. The main exception to this is trail users using ATV's or Four Wheel Drive Off Road Vehicles as they actually sometimes prefer failed trails with impairments. The off road vehicle trails will likely have to have different oversight than other types of recreational trails.