

Commission on Act 250: The Next 50 Years

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Act 250: Goals for Modernization

- Maintain an inclusive review process that is fair and accessible to all interests, including citizens and neighbors.
- Maintain current level of natural resource protection with updates to address contemporary or emerging environmental concerns.
- Ensure that Act 250 furthers Vermont's Planning & Development Goals and related policies.
- Better address location/development context.
- Better address the cumulative impacts of incremental development

Six Major Themes

- Update jurisdiction and criteria based on location and impact
- Address forest fragmentation
- Embed State Planning and Development Goals to promote smart growth and minimize community impacts
- Address climate change (mitigation and adaptation)
- Update criteria based on latest science
- Reduce the expense and delay of appeals while improving public access to the process

Update Jurisdiction And Criteria

- Require Act 250 review, or lower the threshold number of lots that trigger review, in high priority natural resource areas (e.g., forest blocks, river corridors).
- Allow for a more limited Act 250 review in certain designated areas approved under a revised designation process that is fair and accountable.
- Update select state designation programs (downtowns, growth centers, and neighborhood development areas) so that environmental issues are evaluated in the designation process.

Update Jurisdiction And Criteria (con't)

- Update Criterion 9B, Primary Agricultural Soils, to clarify that areas deemed to have “appropriate circumstances” (which allows for off-site mitigation) must be in smart growth locations.
- Require Act 250 review, and context sensitive design, around highway interchanges.

Address Forest Fragmentation

- Require resource-based jurisdiction that heightens Act 250 review in priority forest blocks and connectivity areas.
- Improve Criterion 8 to require that projects be designed to either avoid or minimize the fragmentation of forest blocks and wildlife connectivity areas through proactive site design.
- If it is not feasible to avoid or minimize fragmentation through good design, require mitigation (e.g., agricultural soils).
- Reinstate the review of secondary impacts of utility lines to consider the impacts of development that connects to utility line extensions in priority forest blocks and connectivity areas.

State Planning And Development Goals

- Embed planning goals of 24 VSA §4302, the statutory smart growth principles (24 VSA §4302, and findings from the state capability and development plan into criteria.
- Update capability and development plan maps to identify state interests and use them in coordinated project review.
- Require review of regional plans for conformance with planning goals and planning statute; set up a review body that includes RPC peers and others, as well as an appeal process.

State Planning And Development Goals (con't)

- Require that municipal plans receive approval from Regional Planning Commissions before they can be used in Act 250. Establish a process for municipalities and community members to appeal regional decisions about plan review.
- Update Criterion 9K, effects on development on public investment, to further define “public investment” so that it includes the numerous programs established since Act 250’s inception (i.e., designation programs, certain tax credits, local tax stabilization, Vermont Housing and Conservation Board, etc.).

Climate Change

- Update Criterion 1, Undue Water and Air Pollution, to add greenhouse gas emissions among the items considered in application review.
- Update Criterion 5, Transportation, to ensure that it better supports and expands transportation choices -- not simply or largely to accommodate more single occupancy vehicles.
- Revise Criterion 9F, from Energy Conservation to “Energy Efficiency and Conservation.”
- Water, forest, water resource protection recommendations are all climate adaptation strategies.

Update Criteria Based On Latest Science

- Request ANR and NRB staff, and stakeholders, to evaluate and revise Act 250 criteria to reflect the latest science and associated permitting processes. Criteria to consider include those that address:
 - rivers & streams,
 - headwaters,
 - floodways,
 - Shorelines, and
 - wetlands.

Review Process And Appeals

- Require that District Commissioners have training or expertise in issues related to Act 250 such as environmental science, engineering, law, land use, economics.
- Pay District Commissioners for service beyond a per diem -- consider making the Chair a part time job.
- Better staff the District Commissions with enough District Coordinator support, administrative support and legal support.
- Keep District Commission process open and accessible.
- Establish a 3-7 member professional board to hear Act 250 appeals and administer Act 250.

Companion Policies and Considerations

- Coordinate interagency review of Act 250 applications, to include use of the capability and development plan maps in order to guide public investments, to evaluate the impacts of projects on existing state investments, and to guide state planning decisions.
- Better coordinate state agency planning between agencies and with Regional Planning Commissions.
- Evaluate and update municipal and regional planning statutes.