

Act 250 Application Criteria Descriptions	Regulator	State/Federal Permit	NEPA (list below refers to the Environmental Checklist)	Other Coverage - Executive Orders, Programmatic Agreement, MOU, VTrans Policy, VTrans Standard Specifications, etc.
Criterion 1 - Air Pollution: Demonstrate that the project will not cause undue air pollution.	ANR Air Quality and Climate Division/EPA	1) VT Air Permit; 2) Clean Air Act (42 U.S.C. Ch 85 and 23 U.S.C. Ch 1, Section 109[J])	1. Air Quality, 2. Noise	ANR 501 Permit; Environmental Protection Regulations § 5-501 REVIEW OF CONSTRUCTION OR MODIFICATION OF AIR CONTAMINANT SOURCES (1) No person shall cause, suffer, allow or permit the new construction, installation or modification of any stationary source classified as an air contaminant source under Section 5-401 herein, unless he or she first submits a complete application to and obtains a permit from the Secretary. VTrans Spec 105.24 POLLUTION CONTROL
Criterion 1A - Headwaters: Demonstrate that the project will meet any applicable environmental conservation department regulations regarding any reduction of the quality of ground or surface waters in a headwaters area.	ANR Drinking Water and Groundwater Protection and 401 Water Quality Certification	401 Water Quality Certificate (33 U.S.C. Ch 26, Clean Water Act, Section 401)		WSMD 401; Section 1272 Permit
Criterion 1B - Waste Disposal: Demonstrate that the project will meet any applicable health or environmental conservation department regulations regarding the disposal of wastes and demonstrate that the project will not involve the injection of wastes or toxic substances into ground waters.	ANR Waste Management, Waste Reduction Plan; North Hero Drawbridge Project had a Wastewater System And Potable Water Supply Permit (WW/PWS) for a well and septic system for the Tender House; How do these apply to airports that have Act 250 and WW/PWS permits? Also, Underground Storage Tank (UST) Permits?	ANR Stormwater Permit: 1) Storm Water Discharge Permit: Individual Permit, GP #3-9015 ACT 140 – Stormwater Discharge, GP #3-9010(2003); 2) Compliance with TS4 GP 3-9007; 3) Hazardous Waste (10 V.S.A. Ch 159); 4) Insignificant Waste Management Event (10 V.S.A. Ch 159); 5) Compliance with MS4 GP-3-9014; 6) Underground Injection Permit; 7) NPDES Construction General Permit (40 C.F.R. Part 122.26 – Title 10, V.S.A. Ch 47) – NOI Authorization to Discharge required prior to construction for >= 1 acre disturbance: Construction Stormwater Individual Permit, CGP #3-9020(2006) Low or Moderate Risk; 8) Multi-Sector Industrial Stormwater GP 3-9003.	3. Water Quality, 8. Hazardous/ Residual Waste Liabilities - CERCLA and/or RCRA requirements	NPDES discharges; Vtrans Resident Engineer and Construction Environmental Engineers; 105.25 CONTROL OF WASTE, BORROW, AND STAGING AREAS, 105.26 OPENING WASTE, BORROW AND STAGING AREAS, 105.27 MAINTAINING WASTE, BORROW AND STAGING AREAS, 105.28 CLOSING WASTE, BORROW, AND STAGING AREAS, 202.02 GENERAL CONSTRUCTION REQUIREMENTS; NRB Waste MOU
Criterion 1C - Water Conservation: Demonstrate that the project will use the best available water conservation		Wastewater System and Potable Water Supply Permit		Vt Environ- mental Board and Agency of Environmental Conservation MOU on Referral of Applicants, item 6
Criterion 1D - Floodways: Demonstrate the the Project will not restrict or divert the flow of flood waters, and endanger the health, safety and welfare of the public or riparian owners during flooding. Floodway Fringe: Demonstrate that the Project will not significantly increase the peak discharge of the river or stream and endanger the health, safety and welfare of the public or riparian owners during flooding.	ANR Floodplains Section	Flood Hazard Area River Corridor Permit: 1) Flood Hazard Area and River Corridor Permit (10 V.S.A. Ch. 29); 2) Floodplain Management - FEMA (Floodway and Floodplain) National Flood Insurance Program;	3. Water Quality	Floodplain Management - FEMA (Floodway and Floodplain) & Executive Order 11988
Criterion 1E - Streams: Demonstrate that the project will maintain the natural condition of any streams, when feasible.	ANR River Management;	ANR Watershed: stream alteration permit: 1) Stream Alteration Permit (10 V.S.A. Ch. 41); 2) Consultation (19 V.S.A. Ch. 1, Section 10[12]); 3) Stream Obstruction Permit (10 V.S.A. Ch 111, Section 4607); 4) 401 Water Quality Certificate (33 U.S.C. Ch 26, Clean Water Act, Section 401); 5) Wild and Scenic Rivers Act 1982	3. Water Quality	Wetland Protection (Executive Order 11990);
Criterion 1F - Shorelines: Demonstrate that if the project is located along a shoreline, it complies with the four standards relating to the condition of the shoreline listed in b. below.	ANR Lakes and Ponds Shoreland Protection;	Lakes and Ponds Permit: 1) Lakes and Ponds Permit (29 V.S.A. Ch 11); 2) Shoreland Protection Permit (10 V.S.A. Ch. 49A)	3. Water Quality	105.23 EROSION PREVENTION AND SEDIMENT CONTROL, 105.24 POLLUTION CONTROL
Criterion 1G - Wetlands: Demonstrate that the project will meet applicable Water Resources Board regulations regarding any impacts on designated significant wetlands.	ANR Wetlands Section and Army Corps;	State Wetlands and 404 Army Corps Permit: 1) 10 V.S.A. Ch 47, Section 1272; 2) State Wetland Permit (10 V.S.A. Ch. 37, Section 905); 3) 401 Water Quality Certificate (33 U.S.C. Ch 26, Clean Water Act, Section 401); 4) 404 Corps of Engineers Permit (33 U.S.C. 1344 Clean Water Act, Section 404)	3. Water Quality, 4. U.S. Army Corps of Engineers	Conditional use determination with respect to uses in class one or class two wetlands or their buffer zones; Wetland Protection (Executive Order 11990).105.23 EROSION PREVENTION AND SEDIMENT CONTROL, 105.24 POLLUTION CONTROL

Criterion 2 and 3 - Water Supply: Demonstrate that the project will meet applicable Water Resources Board regulations regarding any impacts on designated significant wetlands.	ANR Drinking Water and Groundwater Protection;	1) Wastewater and Potable Water Supply Permit, Permit to Construct; 2) Nontransient Noncommunity Water System Permit; 3) Transient Noncommunity Operating Permit; 4) Groundwater Withdrawal/ Registration; Link to permit rules: https://dec.vermont.gov/water/laws	3. Water Quality	Permit for the application of herbicides to maintain and clear rights-of-way from the Department of Agriculture; 626.03 GENERAL; DEC Muni Stormwater and Sewage MOU
Criterion 4 - Soil Erosion: Demonstrate that the project will not cause unreasonable soil erosion and will not cause a reduction in the capacity of the land to hold water so that a dangerous condition results.	ANR Stormwater	Operational and Construction Stormwater Permits: 1) NPDES Construction General Permit (40 C.F.R. Part 122.26 – Title 10, V.S.A. Ch 47) – NOI Authorization to Discharge required prior to construction for >= 1 acre disturbance: Construction Stormwater Individual Permit, CGP #3-9020(2006)Low or Moderate Risk;		Vtrans EPSC Protocol; Vtrans EPSC Plan Pursuant to PDB Directive to comply with “VANR Low Risk Handbook for projects under 1 acre”; 105.23 EROSION PREVENTION AND SEDIMENT CONTROL; 652/ 653 EPSC
Criterion 5 - Transportation: Demonstrate that the project will not cause unreasonable congestion or unsafe conditions with respect to the use of highways and other means of transportation and that it will provide access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services.	RPCs; VTrans 1111 and PPAID	1) Scenic Roads (10 V.S.A. Section 425 & 19 V.S.A. Ch 25);	13. Social and Economic Concerns, 14. Aesthetic Concerns, 15. Effects of Temporary Detour/Bridge	107.07 PUBLIC CONVENIENCE AND SAFETY; 107.17 OPENING SECTIONS OF PROJECT TO TRAFFIC; DEC Muni Stormwater and Sewage MOU; NRB & VTrans MOU; Act 145 MOU
Criterion 6 - Educational Services: Demonstrate that the project will not cause an unreasonable burden on the ability of local governments to provide educational services.			13. Social and Economic Concerns	DEC Muni Stormwater and Sewage MOU
Criterion 7 - Municipal Services: Demonstrate that the project will not cause an unreasonable burden on the ability of local governments to provide municipal or governmental services.			13. Social and Economic Concerns	DEC Muni Stormwater and Sewage MOU
Criterion 8 - Scenic Beauty, Historic Sites, and Natural Areas: Demonstrate that the project will not have an undue adverse effect on the scenic or natural beauty on the area, aesthetics, historic sites, or rare or irreplaceable natural areas.	ANR and Vtrans; Section 106, Section 4(f), Vermont Division for Historic Preservation; ANR Fish and Wildlife	Section 106 and Section 4(f) Reviews: 1) VTrans Historic Preservation & Archaeological Officers (22 V.S.A. Ch 14); 2) Section 106 Evaluation (16 U.S.C. National Historic Preservation Act); 3) Section 4(f) Evaluation (23 U.S.C. 138 Preservation of Parklands & 49 U.S.C. 303)	2. Noise, 9. Historical or Archaeological Resources (Section 106), 10. Section 4(f) and 6(f) Resources	105.25 CONTROL OF WASTE, BORROW, AND STAGING AREAS; DEC Muni Stormwater and Sewage MOU (can be conditioned, not denied); NRB Waste MOU
Criterion 8A - Wildlife and Endangered Species: Demonstrate that the project will not destroy or significantly imperil necessary wildlife or endangered species habitat.	ANR Fish and Wildlife	1) Threat. and End. Species Permit (10 V.S.A. Ch 123); 2) Fish & Wildlife Coordination Act (16 U.S.C. Part 661 – 666); 3) Endangered Species Act (16 U.S.C. Section 1531 – 1534) – USF&W Service Section 7 consultation	6. Threatened and Endangered Species and Habitat	VT Fish and Wildlife MOU; DEC Muni Stormwater and Sewage MOU (can be conditioned, not denied)
Criterion 9	VT Department of Housing and Community Development			DEC Muni Stormwater and Sewage MOU
Criterion 9A - Impact of Growth: Demonstrate that the project will not significantly affect the ability of the town and region to accommodate growth.	VT Agency of Agriculture; USDA		13. Social and Economic Concerns	State Transportation Impact Program; DEC Muni Stormwater and Sewage MOU
Criterion 9B - Primary Agricultural Soils: Demonstrate that the project will not reduce the agricultural soils.	VT Agency of Agriculture; USDA	1) Act 183, Agency of Agriculture; 2) Farmland Protection (7 U.S.C. Part 658)	7. Agricultural Land	Agency of Agriculture Soil Review Letter. ; DEC Muni Stormwater and Sewage MOU
Criterion 9C - Productive Forest Soils: Demonstrate that the project will not result in any reduction in the potential of productive forest soils.		USDA Green Mountain National Forest Authorization under FHWA MOU		DEC Muni Stormwater and Sewage MOU

Criterion 9D and 9E - Earth Resources: Demonstrate that the project will not interfere with the future extraction of earth resources; and demonstrate that if the project involves the extraction of earth resources, it will not unduly harm the environment or neighboring land uses, and will be reclaimed for an alternative use.				DEC Muni Stormwater and Sewage MOU; Vtrans Boorow and Poolution spec
Criterion 9F - Energy Conservation: Demonstate that the project reflects the principles of evergy conservation, including reduction of greenhouse gas emissions from the use of energy, and incorporates the best available technology for energy efficiency. Provide evidence of compliance with the applicable building energy standards.				Vt Public Utilities Commission. Requires compliance with Commercial Building or Residential Building Energy Standards, which does not apply to linear projects.
Criterion 9G - Private Utilities: Demonstrate that any private utilities shared by two or more owners will not become a burden on the municipality if it must assume responsibility for them.	Vermont Public Utilities Commisson			DEC Muni Stormwater and Sewage MOU
Criterion 9H - Scattered Development: Demonstrate that if the project is not physically contiguous to an existing settlement, it will not result in greater costs to the municipality than it provides in additional tax revenues and other public	RPCs and DRBs		13. Social and Economic Concerns	DEC Muni Stormwater and Sewage MOU
Criterion 9J - Public Utilites: Demonstrate that the project will not place an excessive or uneconomic demand on any necessary governmental or public facilities or services.	RPCs and DRBs; VPUC		13. Social and Economic Concerns	DEC Muni Stormwater and Sewage MOU
Criterion 9K - Public Investments: Demonstrate that the project will not endanger any adjacent public investment.			13. Social and Economic Concerns	DEC Muni Stormwater and Sewage MOU
Criterion 9L - Settlement Patterns: If outside an existing settlement, demonstrate how the project will promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside.	RPCs		13. Social and Economic Concerns	DEC Muni Stormwater and Sewage MOU
Criterion 10- Local and Regional Plans: Demonstrate that the project conforms to the municipal plan and regional plan.	RPCs and DRBs		13. Social and Economic Concerns	VTrans is exempt from local zoning permits.; DEC Muni Stormwater and Sewage MOU; NRB & VTrans MOU
			FHWA TECHNICAL ADVISORY T 6640.8A(V)(G)(13): "Impacts to fish and wildlife resulting from the loss degradation, or modification of aquatic or terrestrial habitat should also be discussed. The results of coordination with appropriate Federal, State and local agencies should be documented in the draft EIS. For example, coordination with FWS under the Fish and Wildlife Coordination Act of 1958."	New England Governors and Eastern Canadian Premiers Resultion on Ecological Connectivity, Adaptation to Climate Change, and Biodiversity Conservation. VTrans annually funds highways and wildlife mortality research by UVM and TNC VT. VTrans' long range transportation planning, corridor planning, and project prioritization includes wildlife habitat connectivity.

Other Engagement and Regulatory Processes

Act 250 Public Engagement		The Uniform Act https://www.fhwa.dot.gov/real_estate/uniform_act/	https://www.fhwa.dot.gov/Planning/tpr and nepa/planni ngnepaflowchart.cfm.	VTrans policy and planning requirements: 19 V.S.A. §§ 10 to 10l. 23 C.F.R. Part 450 (Planning Assistance and Standards). 19 V.S.A. Ch. 5 (Condemnation).
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Jurisdictional Opinions			(1) the Finding of No Significant Impact (FONSI) and (2) the Record of Decision (ROD). The FONSI includes the EA modified to reflect all applicable comments and responses to those comments. No formal circulation is required, however, the State clearinghouse must be notified of the availability of the FONSI, and FHWA recommends that the public be notified in local publications. The ROD must be issued before any project approvals (e.g. for design, right-of way acquisition, construction) can be given on the selected course of action. It should: (1) state the basis for the decision, (2) identify all the alternatives considered and specify the "environmentally preferable alternative," and (3) state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted and, if not, why they were not.	
File comments on applications			40 CFR 1506.10(c): requires 45-day comment period on draft EIS. But see 23 USC 139: the comment period must be no more than 60 days, unless (1) the lead agency, project sponsor, and all participating agencies agree on a longer period, or (2) the comment period is extended by the lead agency for good cause.	Public Participation Opportunity: Pre-Design Site Meeting, Public Information Meeting, Public Hearing Required (502); Project Managers speak with all property abutters. See 23 CFR § 771.111(h).
District Commission Hearings			23 CFR 771.111(h): requirement for procedures to carry about public involvement/public hearing program pursuant to 23 USC 128 and 40 CFR parts 1500-1508.	
Appeals to court			May appeal FHWA NEPA determinations to the District Court pursuant to the Administrative Procedure Act, where the appropriate standard for judicial review is whether the actions of a federal agency were "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).	