

REPORT OF THE COMMISSION ON ACT 250: THE NEXT 50 YEARS

Submitted January 11, 2019

Excerpt: pg 2- Report Recommendations

The Commission recommends:

- Amending Act 250 to explicitly reference the goals of the Capability and Development Plan and the goals of municipal and regional planning contained in 24 V.S.A. § 4302(c).
- Amending the Capability and Development Plan to include a climate change goal and a goal regarding the utilization of natural resources.
- Amending the statutes to require that the county-level Capability and Development Plan maps created in the 1970s be updated for reference in Act 250 review.
- Reactivating the Development Cabinet.
- Requiring that regional plans be reviewed for consistency with the statutory goals for municipal and regional planning and that, to be used in Act 250, the regional plans must be approved as consistent with those goals.
- Amending the statute to require that municipal plans be consistent with those same statutory goals and that, to be used in Act 250, the plans must obtain approval from the regional planning commission as consistent with those goals.
- Three criteria be amended to address climate change issues.
- Updating Act 250's floodways criterion so that it applies to flood hazard areas and river corridors.
- Act 250's definitions of flood hazard area and river corridor be identical to those that govern the Agency of Natural Resource's (ANR) work and that the revised criterion specifically address fluvial erosion.
- Amending the energy conservation criterion to specifically reference energy efficiency.
- The standing committees of jurisdiction review the Act 250 criteria to determine if any can be updated to address climate change.
- Amending the transportation criterion to: (a) include review of the safety and congestion impacts to bicycle, pedestrian, and other transit infrastructure and (b) better define when it is appropriate for Act 250 to require projects to incorporate

transportation demand strategies and require connectivity to transit services other than single-occupancy vehicles.

- Amending the public investment criterion, 9(K), to specifically refer to investments made through the State designation program, the Vermont Housing and Conservation Board, and similar programs that have been enacted since the criterion was written.
- Improving Act 250's plan conformance criterion by requiring that local plans must be consistent with the statutory goals for municipal and regional planning.
- Criteria be added to protect forest blocks and connecting habitat from fragmentation by adopting the changes contained in H.233 of 2017.
- That the applicant have the burden of proof on criterion 8(A).
- Establishing a multitiered approach toward Act 250 jurisdiction over commercial and industrial development, subdivisions, and housing units.
- Extending Act 250 jurisdiction to cover projects in interstate interchange areas.
- Clarifying the definition of "commercial purpose."
- The establishment of baselines for preexisting gravel pits and quarries.
- That the registered slate quarries be required to give notice of their operations to neighboring property owners.
- That registered slate quarries be added to the ANR Natural Resources Atlas.
- The exemption for slate quarries be repealed.
- The provision that allows quarries to be held in reserve without being considered abandoned be repealed.
- The repeal of the exemption for farming, logging, and forestry below 2,500 feet when these occur in areas that have been designated as critical resource areas.
- Consideration of a process under which release from jurisdiction could be obtained under specific circumstances.
- Further data collection, better permit tracking, addressing delayed applications, improving annual reports, and addressing District Commission variances in order to address the difficulties of conducting an Act 250-related statistical analysis.

- Raising the per diem amount paid to District Commissioners.
- Conformance of local and regional plans with future land use and facility maps.
- Clarifying criterion 10 to indicate that the written provisions should be applied unless they are shown not to meet the same standards of specificity that applies to statutes.
- Assigning risk of nonpersuasion to the appellant in an appeal.
- The Natural Resources Board (NRB) or its successor work with the other State agencies to create a predictable timetable for the permitting process.
- Act 250 appeals be heard by an administrative board that also has the existing functions of the NRB and that the board also hear appeals of ANR permit decisions.