

House Committee on Natural Resources, Fish, & Wildlife

H.120 – April 15, 2021

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Vermont Natural Resources Council (VNRC)

Act 250 Jurisdiction around Interstate Interchanges

VNRC supports the provision of H.120 for including development within 2,000' of interchanges within Act 250's jurisdiction. This is an overdue change to the law that builds upon prior state actions to better manage development around these gateways to our communities. These actions include:

- [Executive Order 19-3](#), which was signed by Governor Dean on September 13, 2001, that directed State agencies to:
 - undertake a natural resource and scenic inventory of the state's 52 interchange, and;
 - take coordinated action to manage development around interchanges through public investment policies, planning assistance to municipalities, land conservation, and active participation of state agencies in Act 250 proceedings involving proposed development near interchanges.
- As stated in the executive order, this action was taken for several reasons, including:
- heightened development pressure in these locations;
 - highway safety and efficiency and impacts on public investments;
 - economic development, especially tourism and maintaining the economic viability of downtowns and villages;
 - natural resource protection and scenic preservation; and
 - implementation of Vermont's statutory land use goals (24 VSA §4302)
- Development of [Vermont Interstate Interchange Planning & Development Guidelines](#), published in 2004, which identified existing conditions around interchanges (i.e., land use, traffic, infrastructure), included:
 - a visual inventory of Vermont's interchanges;
 - the identification of six typologies, or categories of land use/development contexts (e.g., interchanges adjacent to village centers, emerging growth centers, rural);
 - land use and development guidelines appropriate to different typologies; and
 - graphic examples of how the various guidelines could be applied in different typologies, to ensure that state investments, highway safety, and the state's economic development goals, are not undermined by poorly planned development and that .

With regard to H.120, we agree with the proposed jurisdictional trigger as well as the provision that would remove that trigger if a Regional Planning Commission determined that municipal bylaws addressed the issues enumerated. We further suggest that:

- Regional Planning Commissions be directed in 24 VSA Chapter 117 §4348a to categorize the typologies of interchanges within their region in accordance with the *Vermont Interstate Interchange Planning & Development Guidelines*, and to identify appropriate land use and development policies for those areas.
- Amend lines 5-9 on page 5 as follows:
(V) Ensure that allowed uses are of a type, scale, and design that complement rather than compete with uses that exist in designated downtowns, village centers, growth centers, or other regional growth areas. Principle retail should be discouraged or prohibited in highway interchange areas, **unless located in an interchange area identified in the Regional Plan for the region in which the interchange is located as being nearby a village center or downtown.**

Capability and Development Plan

VNRC supports, and appreciates, that H.120 would explore how the Capability and Development Plan (CDP) could provide greater clarity and certainty to the Act 250 process. The CDP is a set of guiding policies (findings), saying what Act 250 should accomplish. It's also a set of maps that help show the surrounding context when you are reviewing a project.

Currently the Capability and Development Plan's findings and map aren't used in Act 250. The draft bill brings the Capability and Development Plan into play in several ways:

- It updates the policies/findings in the Capability and Development Plan to address two important new factors that we understand better than we used to: climate change and ecosystem protection.
- On page 3 of the draft bill, starting on line 13, it adds an overview paragraph at the very beginning of Act 250 that says the purpose of Act 250 is to achieve the goals of the Capability and Development Plan. This is important because it guides interpretation of Act 250 – that's not there now (except as a reference under criterion 9). To be clear, the CDP is not a state land use plan. Rather, it is a collection of inter-related findings and associated maps that highlight "environmental constraints, existing settlements, rural and working lands areas, critical resource areas, facilities and infrastructure, and areas targeted for conservation, public investment, and development." In other words, the CDP was intended to provide guidance for how criteria – most significantly criterion 9 (and the several sub criteria) should be interpreted in the larger context of the impact of development on state and local resources.

H.120 also directs the Natural Resources Board, in consultation with the Agency of Commerce and Community Development and the Agency of Natural Resources, to submit a draft report asking several questions regarding possible update and use of the CDP. VNRC suggests amending this section to instead move forward with an update to the CDP (suggested language below).

In addition, 10 VSA 6042 is the section of Act 250 that describes the Capability and Development plan is 10 VSA 6042. Currently, it says that the Capability and Development plan's findings "may" accomplish the purposes of the state's planning goals – which are separate. We suggest changing "may" to "shall" in the last line of 10 VSA §6042.

Sec. 8. VERMONT REGIONAL AND MUNICIPAL PLANNING REVIEW

(a) On or before December 15, 2021, the Natural Resources Board, in consultation with the Agency of Commerce and Community Development and the Agency of Natural Resources, shall submit a draft report, with recommendations, that addresses:

(1) ~~Alternatives for incorporating for How~~ Sec. 7 of 1973 Acts and Resolves No. 85 (Capability and Development Plan Findings) ~~should be incorporated~~ into 10 V.S.A. chapter 151 and what changes should be made, if any, to the Capability and Development Plan Findings.

(2) ~~Whether to update A budget and schedule for updating~~ the Capability and Development Plan authorized by 10 V.S.A. chapter 151, subchapter 3, including the updating of Capability and Development maps and a list of the resources and land uses to be mapped. If the recommendation is to update the Capability and Development Plan, the report shall provide a schedule and budget for the proposed update.

~~(3) Whether 10 V.S.A. chapter 151 should require the creation of Capability and Development maps. If the recommendation is to require the creation of Capability and Development maps, the report shall identify the resources and land uses to be mapped and provide a schedule and budget for the proposed update.~~

(4) Recommendations for (h)ow Capability and Development Plan Findings, the Capability and Development Plan, and Capability and Development maps would be used in the permitting process under 10 V.S.A. chapter 151 and how they would relate to the criteria under 10 V.S.A. § 6086(a).

In addition, 10 VSA 6042 is the section of Act 250 that describes the Capability and Development plan is 10 VSA 6042. Currently, it says that the Capability and Development plan's findings "may" accomplish the purposes of the state's planning goals – which are separate. We suggest changing "may" to "shall" in the last line of 10 VSA §6042.