

**STATE OF VERMONT**  
**EXECUTIVE DEPARTMENT**  
**EXECUTIVE ORDER No. 04-20**

[Promoting and Providing Regulatory Certainty for Recreational Trails]

**WHEREAS**, Vermont's landscape of forests, farms and compact downtowns and village centers and their associated outdoor recreation opportunities are major reasons why people visit and live in Vermont; and

**WHEREAS**, in Vermont, outdoor recreation accounts for 34,000 direct jobs and \$2.5 billion in consumer spending; and

**WHEREAS**, our natural, cultural and physical recreation assets can and should be leveraged to sustain, grow and drive economic development in all sectors of Vermont's economy with particular attention to the segment that includes outdoor recreation industry businesses that are most closely aligned with the State's outdoor recreation brand; and

**WHEREAS**, those recreation assets must be wisely managed and strengthened, not only to grow the economic development potential of this sector, but to sustain and enhance the value of the Vermont brand, the experience of visitors to Vermont and Vermonters' quality of life; and

**WHEREAS**, outdoor recreation is critically important to the physical and mental health and wellness of Vermonters especially during the COVID-19 pandemic through exercise in the Vermont environment in a way that promotes our public health objectives; and

**WHEREAS**, Vermont Natural Resources Board Rule 71(A) clarifies that when a property owner authorizes a trail to be located on their property, and an Act 250 permit is required for that trail system, Act 250 jurisdiction only applies to that trail corridor; and

**WHEREAS**, the public would benefit from additional clarity with respect to the manner in which recreational trails are regulated through Act 250.

**NOW THEREFORE, BE IT RESOLVED**, that I, Philip B. Scott, by virtue of the authority vested in me as Governor, and in furtherance of promoting outdoor recreation and the rural economy, do hereby order and direct as follows:

- I. The Chair of the NRB shall clarify through guidance or rulemaking:
  - A. That the jurisdictional trigger for trails enrolled in the Vermont Trail System is the jurisdictional trigger that applies to the construction of improvements for municipal, county, and state purposes in 10 V.S.A. § 6001(3)(A)(v). (Meaning a VTS trail project will require 10 acres or more of actual land disturbance to trigger Act 250 jurisdiction, regardless the size of the parcel(s) the trail may cross).

- B. That the involved land for determining jurisdiction over trails enrolled in the Vermont Trail System includes only those portions of any tract or tracts of land to be physically altered or upon which construction of improvements will occur as more fully described in Act 250 Rule 2(C)(5)(b). (Meaning land not used as a part of the VTS trail improvements will not be considered when determining whether a VTS trail project triggers Act 250 jurisdiction).
- C. That once Act 250 jurisdiction is triggered, that jurisdiction only extends to the trail corridor and to any area directly or indirectly impacted by the construction, operation, or maintenance of the trail corridor. (Meaning when Act 250 asserts jurisdiction over a VTS trail project, jurisdiction will only apply to the trail corridor and will in no way restrict or encumber lands outside the trail corridor on the parcel(s) the trail may cross).

## II. Recommendations for Future Improvements to Recreational Trail Oversight

On or before March 1, 2021, the Commissioner of Forests, Parks, and Recreation shall make recommendations for an alternative, best-management-practices-driven program for the oversight of planning, construction, use, and maintenance of recreational trails in the Vermont Trails System administered by the Agency of Natural Resources. These recommendations should also provide applicants clarity on how recreational trails can be constructed and operated in a manner that does not result in an undue or adverse impact to the human or natural communities where they are located. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The recommendations should include any proposed changes to legislation to promote the construction and operation of trails in an environmentally protective manner. The Agency of Natural Resources shall consult with stakeholders including the Vermont Trails and Greenways Council in developing recommendations.

## III. Suspension of Proceedings that Address Act 250 Jurisdiction

Any executive branch litigant or tribunal shall take all reasonable steps to delay a final decision in any proceeding addressing Act 250 jurisdiction until the steps identified in this Executive Order take effect.

IV. Effective Date

This Executive Order shall take effect upon signing.



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this 5<sup>th</sup> day of October, 2020.

A handwritten signature in black ink, appearing to read "Philip B. Scott", written over a horizontal line.

Philip B. Scott  
Governor

By the Governor:

A handwritten signature in black ink, appearing to read "Brittney L. Wilson", written over a horizontal line.

Brittney L. Wilson  
Secretary of Civil and Military Affairs

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