

2. SUBSTANTIAL REGIONAL IMPACT

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Title Twenty-four of the Vermont Statutes Annotated (VSA), Sub-Section 4345a(17), approved by the Legislature in 1989 requires that all regional plans include a “substantial regional impact” element. 24 V.S.A. §4345a(17). The primary purpose of the substantial regional impact element is for use in State regulatory proceedings. Act 250, the State of Vermont’s primary statewide land use regulation, evaluates development projects based upon the project’s impacts under ten broad ranging criteria and a number of sub-criteria. Criterion 10 of Act 250 requires the District Environmental Commission to find that a project conforms to the Town Plan and to the Regional Plan. Sometimes these plans disagree. In that case, the District Commission has to decide which plan to use. The substantial regional impact element of a regional plan provides each district commission with objective criteria to inform its decision.

Section 4345a(17) states that local plans apply in all cases, except when a conflict between the Town and Regional Plan exists, *Id.* The Addison Regional Plan’s Substantial Regional Impact element contains a detailed framework for determining when a project will trigger the Region’s substantial regional impact criteria. In general, projects with substantial regional impact or benefits significantly affect facilities, services, housing, etc. located outside the Town where the project is located, or impact or benefit a natural resource or infrastructure of regional significance and therefore fall under the purview of the regional plan.

ACRPC also uses the substantial regional impact criteria to determine the projects regulated by Act 250 in which ACRPC will actively participate. ACRPC’s process for choosing when and how it participates is also outlined in this section.

A. Authorization

Title Twenty four of the Vermont Statutes Annotated, Sub-section 4345A(17), requires that regional plans:

"define substantial regional impact as that term may be used with respect to its region."
24 V.S.A. § 4345A(17).

It then states that, "This definition shall be given due consideration, where relevant in State regulatory proceedings." Id.

Two state regulatory proceedings that specifically require the reviewing authority to review regional plans include:

1. Chapter 151 of Title 10 of the Vermont Statutes Annotated, entitled, "State Land Use and Development Plans", commonly known as "Act 250", which includes compliance with local and regional plans as one of the 10 criteria district commissions use to evaluate land development large enough to trigger jurisdiction;
2. Section 248 of Title 30 of the Vermont Statutes Annotated, which regulates utilities and large scale energy generation and transmission, also includes a subsection that requires the Public Service Board include compliance with local and regional plans in its review of a project's compliance with the "orderly development of a region". See 30 V.S.A. §248(b)(1).

B. Application

There are three specific situations in which these guidelines will be used:

1. First, ACRPC uses the "substantial regional impact" criteria to determine whether, it will actively participate in the Act 250/Section 248 process for any given project, and if it will participate, how it will participate;
2. Second, ACRPC's uses the "substantial regional impact" criteria to determine its course of action if a conflict exists with a local plan on a project determined to have a substantial regional impact; and
3. Third, the "substantial regional impact" section directs the District 9 Regional Commission and project applicants how ACRPC's Plan should be read in cases of conflict or potential conflict with a municipal plan.

ACRPC staff reviews all development subject to the jurisdiction of Act 250 or Section 248. The first way it applies the "substantial regional impact" criteria is to determine whether or not the project contains sufficient scope to demand ACRPC's attention. ACRPC's process for staff and committee evaluations of projects, and governing how ACRPC will participate in the process if it finds a project to have substantial regional impact, is described in Sub-section D of this chapter on process.

Part of ACRPC's process is to try to reconcile any differences between a municipal plan and the regional plan. If ACRPC and a municipality cannot agree about how to reconcile their respective plans and ACRPC finds a substantial regional impact, this Section instructs the District 9 Commission to give the Regional Plan effect over the local plan. This section also intends to limit the primacy of the Regional Plan only to those aspects of the development that affect substantial regional interests; otherwise the local plan should be given effect. In other words, if a project is deemed to have a substantial regional impact because it is located near a significant regional highway, only those aspects of the regional plan relating to traffic impacts on the highway will be given effect, otherwise the local plan will control.

C. Definition

Projects which trigger one of more of the following will be considered to be projects with "substantial regional impact."

1. A project or development which would substantially affect the traffic-carrying capacity of regionally significant highways, or substantially change the service area or capacity of inter-municipal facilities, including, but not limited to, union high school districts, or public water or sewer systems serving more than one municipality;
2. Physical improvements to a major employer's facility, which include expansion of a major employer (over 50 employees) by the addition of 25% or more employees, or by an increase of 25% or more in shipping/receiving activity using over-the-road vehicles;
3. Relocation of a major employer (over 50 employees) from one town to another;
4. Location of a new major employer (over 50 employees) in the Region;
5. Location or expansion of regional public and quasi-public facilities such as solid waste facilities, union district schools, the County courthouse, expansions or reductions in air/rail services, road improvements on Class I and Class II roads, power generation, and energy transmission facilities;
6. Projects which are located either on the same parcel, or on abutting parcels to "Regionally Significant Resources" as identified by the Regional Plan, Maps 8-2A & B, and have an impact on or benefit to these resources; or
7. Projects which will have significant off-site impacts on or benefits to "Regionally Significant Resources" as identified by the Regional Plan, Maps 8-2A & B, located at a distance from the project site.

D. Procedures for Review of Projects with Substantial Regional Impact

1. Staff will review each Act 250/ Section 248 project impacting the region and draft a memo to the Act250/Section 248 committee describing the project proposed and making an initial determination regarding whether the project as proposed triggers the substantial regional impact criteria as described in the Addison Plan. Any member of the

Commission or member of the Committee may also request that the Committee review any project for a substantial regional impact.

2. The Act 250/Section 248 Review Committee will serve as lead in reviewing projects that may have substantial regional impacts (“SRI”).
3. When reviewing a potential SRI project, the Committee will expand to include the Addison County Regional Planning Commissioner(s) from the town where the project is located, and from the other affected towns.
4. The Committee will first review the project to determine whether it has SRI.
5. If the Committee finds a project has SRI, the Committee will determine how and on which criteria it believes ACRPC should participate and make a recommendation to the full Commission or the Executive Board if the timeframe is short.
6. Conflict resolution--
 - a. In cases where a conflict between a municipal plan and the regional plan is not clearly established, due to generalized language, lack of sufficient data to determine conformance, etc., then the plans should be read to harmonize their intent;
 - b. In cases where a conflict between the local and regional plans is clearly defined, conflict resolution prior to the initial Act 250/Section 248 hearing is strongly supported by this Plan;
 - c. When such a mediation or negotiation effort results in an agreement between the affected town(s), and ACRPC Act 250/248 Committee, which mitigates impacts on the identified resource of regional importance, such that the intent of the applicable regional plan policies are met, such agreement will be presented to the full Commission for action with favorable recommendation by the Act 250/248 Committee. In reaching agreement, the parties will consult with the applicant and may consult with State agencies or other technical advisors as necessary. Such agreement, when approved by the Regional Commission, and the planning commission and legislative body of each participating town, will then become the joint testimony of the Town(s) and the Regional Commission on the subject(s) of the agreement; and
 - d. If a project impacts multiple towns, ACRPC will seek to provide a Regional solution that works favorably for all of its member towns. However, in areas where impacted towns split on their review of a project, ACRPC will exercise its independent judgment and conduct its review based upon the regional nature of and benefits and impacts of the project.
7. Staff will then participate in the review of the project pursuant to the instructions of the Commission.