

Supplemental Memorandum — CVRPC's August 19, 2026 Response Confirms the Section 1.106(A) Concern, and Identifies a Related Delivery Defect

Date: August 20, 2026

To: Vermont Land Use Review Board — Act250.Board@vermont.gov

Cc: Brooke Dingledine, Land Use Review Board

From: Stephen Whitaker, Montpelier, Vermont, on behalf of himself and
ASAP4CV (Accountable, Sustainable, Affordable Planning 4 Central Vermont)

Re: Docket RPC03-0001 — Supplement to my August 18, 2026 oral comment
and written memorandum on Section 1.106(A) of the Board's Application
Guidelines

I. Purpose

This is a brief supplement, not a new argument. Two things have happened since my August 18 memorandum that I think the Board should have in front of it: first, CVRPC's own conduct has turned yesterday's abstract Guidelines concern into a concrete, current example; second, a related but distinct statutory defect has come into focus that I had not yet raised.

II. CVRPC's August 19 response confirms the concern raised on August 18

On August 10, 2026, ASAP4CV — a timely, written § 4348(d)(1)(D) notice-requesting organization, on record since July 25, 2026 — asked CVRPC for three things: printed copies of the draft Plan and Future Land Use Map for our own use, completion of the public map set at Kellogg-Hubbard Library, and the § 4348(d)(1) conformance report, which the materials sent the previous day had not included.

CVRPC's Executive Director responded yesterday, August 19 — nine days later, four days after the statutory delivery deadline had passed. On the conformance report specifically, his response cites Section 1.106(A) directly: the Draft Regional Plan Review Checklist "will serve to meet" that requirement, and states, "We do not intend to submit another document at this time."

I raise this not as a claim that anyone acted in bad faith, but because it removes any question of whether Section 1.106(A)'s consolidation of three statutory deliverables into one document is a live practical issue or only a theoretical one. One day after I flagged the provision to the Board in the abstract, CVRPC's own Executive Director invoked it, in writing, to decline producing a document the statute separately requires.

The consequence is not only that the wrong document was substituted for the right one. Even where a map-change description exists on its own terms — for example, CVRPC's August 6, 2026 Future Land Use Areas Map Change Memo — I have already documented, in my August 12, 2026 correction letter to CVRPC and in Parts 1 and 2 of my July 24, 2026 comments, that a narrative of this kind does not let a reader determine what specifically changed from the prior map, parcel by parcel, or why. I do not repeat that analysis here; it is already in the record before the Board. I raise it only to note that the Section 1.106(A) problem and the map-change-description problem are not two separate complaints. They are the same gap seen from two directions: a Guidelines provision that lets one thin document stand in for a statutory requirement, and a narrative that, even when produced, does not tell a reader which parcels changed status or why.

III. A related, independent defect: the statutory delivery method has not been used

Separately from the content question addressed above, § 4348(d)(1) specifies exactly how the plan copy, conformance report, and Future Land Use Map change description must reach a § 4348(d)(1)(D) notice-requesting party: "delivered physically or electronically with proof of receipt or sent by certified mail, return receipt requested."

ASAP4CV's notice request was made in writing on July 25, 2026, more than two weeks before CVRPC set its current hearing schedule. CVRPC's Executive Director initially described that request as a request to be added to a mailing list; I corrected that characterization the same day, in writing, and CVRPC did not dispute the correction.

To date, none of the three required documents has been delivered to ASAP4CV by certified mail, or physically or electronically with proof of receipt. What has been offered instead is access by appointment at CVRPC's own office, physical copies at two library and city-hall locations, and files formatted for a local print

shop to print at our own expense. Each of those may be a reasonable accommodation on its own terms, but none of them is one of the three delivery methods the statute specifies, and CVRPC's response does not indicate that any of the three will be used.

I note, without treating it as a separate legal claim, that CVRPC administers this process on a budget in the millions of dollars, while ASAP4CV is an unfunded volunteer group; the burden of bridging the gap between what the statute specifies and what has been offered so far has fallen entirely on the latter.

This is not only a question of which delivery method was used. It bears on why § 4348(d)(1) specifies physical delivery of the plan and map materials at all, rather than treating online access as sufficient on its own. 3 V.S.A. § 6002(6)'s meaningful-participation standard requires that communities be "enabled and administratively assisted to participate fully through education and training." For a small volunteer steering committee trying to genuinely understand a complex, multi-layer map, that assistance means something concrete: the ability to spread a full-scale paper map on a table and have several people study the same fixed image together, pointing to the same boundary at the same time, rather than each person separately squinting at their own phone or laptop screen, or taking turns at one shared device. A rolled paper copy delivered to the group is not a convenience beyond what the statute requires; it is the kind of concrete, administratively assisted access that turns "we posted a link" into participation a group of ordinary residents can actually use together. Office-hours access by appointment, or a file formatted for a print shop we would need to pay to produce ourselves, does not serve that same purpose, whatever else it accomplishes.

IV. Why this belongs in front of the Board now

Both items above are narrow and fact-based, and both are current rather than hypothetical:

1. CVRPC has now relied on Section 1.106(A), in writing, to decline producing a conformance report as a document distinct from the Checklist — the exact use of that provision my August 18 memorandum described as a risk.
2. CVRPC has not used any of the three delivery methods § 4348(d)(1) specifies to deliver the plan copy, conformance report, or map change description to a confirmed, timely § 4348(d)(1)(D) party.

Requested actions

- Direct CVRPC to state whether it will produce a conformance report as a document distinct from the Draft Regional Plan Review Checklist, and if not, to identify the statutory basis for treating Section 1.106(A) as sufficient to excuse that separate requirement.
- Direct CVRPC to confirm whether the plan copy, conformance report, and Future Land Use Map change description have been, or will be, delivered to ASAP4CV by one of the three methods § 4348(d)(1) specifies — physical or electronic delivery with proof of receipt, or certified mail, return receipt requested — and if not, to do so before the September 14 hearing, including a printed, full-scale copy of the map set sufficient for a small group to study together, consistent with the administrative assistance 3 V.S.A. § 6002(6) requires.
- Treat CVRPC's August 19, 2026 written reliance on Section 1.106(A) as a current, concrete example for the Board's consideration in any further clarification of that provision.

Respectfully submitted,

Stephen Whitaker

Montpelier, Vermont

On behalf of himself and ASAP4CV