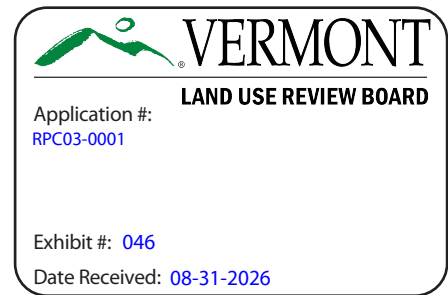


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Land Use Review Board

10 Baldwin Street

Montpelier, VT 05633-3201

Via Act250.Board@vermont.gov and public comment, Board meeting of August 31, 2026

Re: Draft Preapplication Response, RPC03-0001 (Central Vermont Regional Planning Commission) — Comment on Conformance Finding Under 24 V.S.A. § 4302(b) and Outreach Finding Under 24 V.S.A. § 4348(a)

Chair Hurley and Members of the Board:

I write during today's meeting, in connection with the agenda item on the draft preapplication response for RPC03-0001, to ask the Board to reconsider two findings before they are finalized: the blanket statement that the draft regional plan “appears to conform” with 24 V.S.A. § 4302(b), and the parallel finding under Section C that the Commission “appears to have provided for meaningful participation to communities throughout the region.” Both drafts I have reviewed state these conclusions in a single sentence, without engagement with the record. I ask the Board to look at that record before the finding is adopted, not after.

This is the forum where the question has practical effect. Once the plan is adopted, the Board's review under 24 V.S.A. § 4348(i) is confined by subsection (i)(3) to consistency with the elements described in § 4348a — it does not reach § 4302(b) or § 4348(a) outreach questions at all. Today, before adoption, the Commission can still cure a documented gap. After adoption, the Board can still in principle revisit § 4302(b) as a state planning goal at its § 4348(h)(4) determination, but only if the record before it then contains more than a repeated one-line finding. What the Board does with this record now will likely be what it relies on later. I raise this not as a single complaint but because the same pattern recurs across several independent points of contact with the Commission over

the past month, and because five other regional plans will follow this one through the identical preapplication process.

The record does not yet support the finding

The following are documented, not disputed:

Written notice request and the statutory response deadline.

On July 25, 2026 I submitted a written request for materials under 24 V.S.A. § 4348(d)(1)(D). The Commission's thirty-day deadline to respond was August 9. Materials were not sent until August 10, and were sent electronically only, with no proof-of-receipt mechanism — the statute requires delivery either by physical or certified mail, or electronically with proof of receipt. Neither condition was met.

The conformance report.

Section 4348(d)(1) requires delivery of a conformance report documenting the plan's conformance with the § 4302 goals and § 4348a elements. No conformance report was included among the materials sent on August 10. I'd also ask the Board to examine its own Section 1.106(A), which states that the draft Regional Plan Review Checklist “will serve to meet” the § 4348(d)(1) requirement for a report. A checklist and a report documenting conformance are not the same instrument, and Section 1.106(A) does not explain how one substitutes for the other for three distinct statutory items — the § 4302 goals report, § 4348a compliance, and the description of FLU map changes. If the Commission is relying on Section 1.106(A) to treat the report requirement as satisfied, the Board should say so on the record and decide whether that reliance is well founded, rather than let the question pass unaddressed.

Paper maps.

As of August 10, printed Future Land Use Maps were available at the Kellogg-Hubbard Library for only six of the region's twenty-three towns. For the remaining towns, the printed material was reduced to roughly nine-inch images of an entire town at once — a scale at which individual parcels, growth-area boundaries, and farmland cannot be distinguished from one another. A member of the public relying on the paper copy the statute entitles them to cannot, at that scale, tell which parcels are proposed for which designation.

Parcel-level criteria record.

Separate from the map-scale problem, the Commission has not produced any parcel-level record of which of the seven Planned Growth Area criteria at § 4348a(a)(12)(B) a given parcel was found to satisfy, or which criteria were not examined. A resident can see that their parcel is colored for a designation. They cannot see why.

Recharacterization of the hearing schedule.

The Commission's August 10 letter recharacterized the September 8 hearing as “additional and non-statutory” and designated September 14 as the first of the two statutorily required hearings. That recharacterization was issued hours after I had written to flag that the August 9 statutory deadline had passed. I note the sequence as a fact in the record; I do not ask the Board to find an intent behind it.

A third, conflicting public-facing deadline.

The Commission's own printed outreach flyer for this plan — the document actually placed in front of the public, distinct from anything filed with the Board — states that comments on the Regional Plan and Future Land Use Map “will be accepted until August 28, 2026.” That date precedes the September 8 hearing by eleven days and the September 14 statutory hearing by seventeen. A resident relying on the material CVRPC itself is distributing would reasonably conclude their opportunity to comment had already closed before either statutory hearing occurred. This is a third deadline, reconcilable with neither the Board's own thirty-day written comment window nor the statutory hearing dates, and it is the version the general public is most likely to see.

Why this matters to the § 4302(b) finding specifically

Section 4302(b)(2) states a general goal — to encourage citizen participation at all levels of the planning process. That is a distinct question from whether the Commission technically satisfied § 4348(a)'s working-session requirements. A plan can hold working sessions and still fail the broader goal if the public cannot subsequently obtain the materials the statute promises them, at a scale that lets them evaluate what is being proposed for their own property. The six items above are not process complaints collateral to § 4302(b); they are the concrete content of what “citizen participation” has to mean if the phrase is to do any work at all.

A structural recommendation, applicable beyond this docket

Independent of RPC03-0001, I'd ask the Board to consider a standing practice — for the Board itself, and as guidance to regional planning commissions — of proactive, subscription-based notice by topic to registered interested parties: notice of an upcoming hearing or decision point in time to participate in it, rather than notice of the outcome after a vote has already been taken. I raise this now because it is a structural fix, not a docket-specific one, and five more regional plans will move through this same preapplication process behind this one. An answer adopted now will govern all of them.

Timing

The Board's preapplication review and response period under Guidelines Section 1.104 runs sixty days from the date the preapplication was deemed complete — July 8, 2026 — which lands on Sunday, September 6. Today appears to be the last regularly scheduled Board meeting falling inside that window; I am not aware of a meeting scheduled before September 6. Section 1.104 allows the review period to extend beyond sixty days only if the Commission agrees to additional time in writing. Nothing in the record indicates that agreement has been given.

I raise this because the sixty-day figure is a self-imposed target, not a statutory deadline with independent legal consequence, and exceeding it does not preclude the Board from taking the additional week it would need to consider this memo before acting. What it does mean is that continuing this matter to next Monday's meeting requires an affirmative step the Board has not yet taken: securing the Commission's written consent to extend. I ask that the Board take that step today, rather than treat the absence of a scheduled meeting before September 6 as a reason to finalize the response now.

Requested actions

- Decline to finalize the § 4302(b) and Section C findings as currently written; request additional information from the Commission addressing the six items above before treating either finding as supported.
- Direct the Commission to cure, prior to adoption: delivery of the omitted conformance report; delivery, with proof of receipt, of the materials already owed under the July 25 request; completion of legible, parcel-scale paper map sets for all twenty-three towns at the Kellogg-Hubbard Library; and

public correction of the August 28 comment deadline on its outreach materials so it does not conflict with the September hearing schedule.

- Consider adopting, or recommending to regional planning commissions, a standing practice of proactive subscription notice by topic to registered interested parties in advance of hearings and decision points.
- Before voting today, ask the Commission to state on the record whether it will agree in writing to a short extension of the sixty-day review period under Guidelines Section 1.104, so the Board can take up this matter at its next meeting with the record addressed.

Thank you for the Board's consideration.

Respectfully submitted,

Stephen Whitaker
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