

# Vermont Residential Building Energy Standards Compliance

March 10, 2019

Over the last number of months, the Public Service Department (PSD) contracted with Energy Futures Group to conduct a review and update of the State of Vermont's Residential Building Energy Standards (RBES), as directed by the State Legislature to be conducted every three years. This standard is the only residential state-wide building code. The only current compliance and/or enforcement mechanism is exposing the builder to litigation by the owner to bring the building into compliance within a six year statute of limitations. Builders are required to post documentation at the house and submit an RBES Certificate to the PSD and local town clerk, and some lending and certification processes also require the builder to file a certificate of compliance upon conducting work governed by the RBES. However, there is no state or third-party verification of this self-reporting process, no formal enforcement process and no central publicly accessible database where compliance information is collected.

Public Stakeholder meetings and Advisory Board meetings were conducted as part of drafting the most recent RBES revision. During this process, it became very clear that there is a strong interest on behalf of all parties to encourage the Legislature to strengthen compliance of the RBES by mandating a more robust and transparent enforcement mechanism. In particular, the following points were raised in support of this position:

- RBES-compliant projects protect occupants/homeowners. Projects that are delivered below the RBES standard expose the owner to potential health risks in addition to the more obvious effects of increased operational and maintenance costs due to poor energy performance and increased durability risk in a marketplace lacking RBES enforcement.
- Whereas the RBES references an "authority with jurisdiction", there is currently no such authority outside of a small number of municipalities in the state to enforce RBES compliance, or even to provide interpretation of the Standard to builders seeking to comply.
- The current lack of enforcement puts reputable and compliant builders at a competitive disadvantage due to unfair competition by builders willing to ignore RBES compliance and undercut the pricing of construction.
- To meet state's energy efficiency and carbon reduction goals, the Public Service Department supports an incremental strengthening of the RBES. This may exacerbate problems relating to unfair market competition, non-compliance, reduced building performance, and further loss of energy savings, as the gap between compliant and non-compliant buildings grow. Lack of enforcement is leading some contractors who otherwise support the RBES to call for a halt to improving the strength of the RBES at a time when improvements are critical to achieving Vermont's carbon reduction and energy efficiency goals.

The signees of this letter strongly encourage the Legislature to take the following actions in the 2019 Legislative Session:

- Establish a state-wide enforcement officer (or “authority having jurisdiction”) to conduct RBES enforcement, support RBES interpretation and provide regional code training;
- Replace requirements for self-reporting as a pathway to RBES compliance with the state-appointed enforcement officer;
- Address enforcement and compliance improvements in the three-year cycle of RBES revision;
- Explore opportunities to require presentation of an RBES Compliance Certificate to buyers, lenders, appraisers, town officers, or any other parties to transactions governing improved or newly-constructed properties under RBES jurisdiction.
- Since RBES compliance is a State law, include such compliance as a component of any builder registration effort currently being considered.

Compliance with RBES is critical to helping meet Vermont’s climate and energy goals. This can only be accomplished with a coordinated approach that includes 1) regular RBES upgrades, 2) contractor/builder registry, and 3) code compliance, testing and enforcement. Vermont’s building community strongly supports these efforts and would be pleased to provide more information.

Signed by:

AIA Vermont - A Chapter of The American Institute of Architects

Building Performance Professionals Association (BPPA)

Energy Futures Group

Home Builders and Remodelers Association (HBRA)

Housing Vermont

Sustainable Energy Outreach Network (SEON)

Vermont Green Building Network

Vermont Housing Finance Agency

Vermont Passive House (VTPH)

