



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, Vermont
05633-3201
(802) 828-3309
www.nrb.vermont.gov

ACT 250 NOTICE OF EMERGENCY RESPONSE TO THE CORONAVIRUS DISEASE 2019 (COVID-19)

March 18, 2020

Preliminary Statement

On March 13, 2020, the Governor of the State of Vermont issued [Executive Order No. 01-20](#) declaring a State of Emergency in response to the Coronavirus Disease. On March 16, 2020, the Governor issued [Addendum 1](#) and [Addendum 2](#) to this Order. All Executive Orders are available on the Governor's Office [website](#). As part of these Orders, the Governor:

1. Directed the Secretary of Administration, in consultation with the Commissioner of Human Resources, to encourage and facilitate telework among those State employees with the capacity to work remotely.
2. Prohibited all large non-essential mass gatherings of fifty (50) people or fifty percent (50%) of the occupancy of a facility, whichever is less.

On March 14, 2020, the Vermont Department of Buildings and General Services posted on the entrance to State buildings a sign requesting that individuals not enter if they:

1. Have, in the past 14 days, traveled to one of the countries or areas affected by the new Coronavirus, including most of Europe, China, Iran, and South Korea.
2. Have been in close contact with a person who has COVID-19.
3. Have felt unwell with a temperature or respiratory symptoms, such as a cough, shortness of breath, or difficulty breathing.

A copy of the sign is available on the Vermont Natural Resources Board's ("NRB") website (<https://nrb.vermont.gov/>).

In accordance with these precautions and until further notice, the following temporary measures shall apply to all Act 250 District Offices and in all Act 250 permitting proceedings. The NRB has concluded that these measures are consistent with the existing Act 250 statutes (10 V.S.A. Ch. 151) and rules. If and when additional temporary measures become necessary that are inconsistent with the existing rules, the NRB will consider adopting emergency rules pursuant to 3 V.S.A. § 844 to ensure to the degree possible the continuation of permit proceedings. If necessary, the NRB may also amend this Notice as needed.

Access to District Commission Offices and Act 250 Permit Files

To ensure the continued health and safety of NRB employees and the general public, the NRB is making arrangements for most, if not all, of its employees to telework. The NRB requests that

all individuals, including its own employees and members of the public, abide by the March 14, 2020 sign referenced above. The NRB further requests that *before arriving at a District Commission office*:

1. Individuals wishing to access Act 250 permit files first check to see whether the documents they want to inspect are available on the [Act 250 database](https://anrweb.vt.gov/anr/vtanr/Act250.aspx), available at: <https://anrweb.vt.gov/anr/vtanr/Act250.aspx>; and
2. Individuals interested in reviewing paper files at a district office, should first check the NRB website to determine if the district office is open and whether there are other options district office staff can take to make the desired information in the files available without the need for the requestor to visit a district office. If an in-person visit is necessary, individuals may be asked to schedule an appointment to inspect paper files to limit the number of people in district offices at any given time.

Administrative Amendments and Minor Permit Proceedings

Administrative amendments and minor permit proceedings are not affected by the temporary measures outlined in this Notice. However, it is possible that in minor permit proceedings Commissions may choose to exercise, on a more frequent basis than usual, their existing authority to hold prehearing conferences pursuant to Act 250 Rule 16. Commissions may require those wishing to attend any such prehearing conferences to do so via telephone (instructions to participate in any such telephonic conference will be included with the Notice).

Pending Major Permit Proceedings

Major permit proceedings shall proceed as follows:

1. For permit applications where District Commissions decided to hold hearings on their own motion pursuant to 10 V.S.A. § 6084(d), the NRB recommends Commissions:
 - a. Consider whether they can obtain sufficient information through Act 250 Rule 20 requests for supplemental information to ameliorate the concerns that led them to conclude a hearing was needed; and
 - b. Assuming they can obtain the necessary supplemental information, re-notice the applications as minors following all the same statutes and rules pertaining to minor applications.
2. For permit applications where either District Commissions have granted a hearing at a party's request or the Commissions cannot obtain all necessary supplemental information to ameliorate their own desire to have a hearing, the NRB recommends Commissions:
 - a. Ask the applicant whether it will stipulate in writing to at least a 60-day extension to the deadline in 10 V.S.A. § 6084(d) to hold a hearing or prehearing conference within 40 days of receipt of a complete application; and
 - b. Fourteen (14) days prior to the expiration of any extended deadline, consult with the NRB prior to convening in-person hearings.

3. If an applicant will not stipulate to the extension of the above-referenced 40-day deadline, or if the NRB or Commissions determine it is still not advisable to convene an in-person hearing after the expiration of any extension to that deadline, the NRB recommends Commissions:
 - a. Schedule a telephone pre-hearing conference within the initial 40-day deadline to satisfy the Commissions' obligations under 10 V.S.A. § 6084(d); and
 - b. At the pre-hearing conference discuss whether the parties will waive an in-person hearing and live cross examination.

If all parties are willing to waive an in-person hearing and live cross examination, the NRB recommends that District Commissions set a schedule for the remainder of the permit proceeding that contains deadlines for filing pre-filed testimony pursuant to Act 250 Rule 17(D), as well as submitting and responding under oath to written cross examination for the witnesses.

If the parties are not willing to waive an in-person hearing and live cross examination, the NRB recommends that Commissions refrain from completing proceedings and refrain from holding in-person hearings until they receive additional guidance from the NRB.

New Major Permit Proceedings

For new major permit proceedings, the NRB recommends District Commissions:

- a. Schedule a telephone pre-hearing conference within the initial 40-day deadline to satisfy the Commissions' obligations under 10 V.S.A. § 6084(d); and
- b. At the pre-hearing conference discuss whether the parties will waive an in-person hearing and live cross examination.

If all parties are willing to waive an in-person hearing and live cross examination, the NRB recommends that District Commissions set a schedule for the remainder of the permit proceeding that contains deadlines for filing pre-filed testimony pursuant to Act 250 Rule 17(D), as well as submitting and responding under oath to written cross examination for the witnesses.

If the parties are not willing to waive an in-person hearing and live cross examination, the NRB recommends that Commissions refrain from completing proceedings and refrain from in-person hearings until they receive additional guidance from the NRB.

Conclusion

The NRB asks all individuals to act responsibly and in the interest of their own safety and the safety of others in the Vermont community. The NRB also thanks the Vermont community for its patience and cooperation while it works to ensure permit applications continue to be processed.