



VTPH Calls for the Adoption of the 2023 RBES Updates to be Postponed.

Vermont Passive House urges LCAR to postpone adoption of the 2023 RBES updates for the following reasons:

- 1) There exists an ongoing and systemic lack of clear authority for code administration and enforcement
- 2) The 2023 proposed technical wall assemblies put the health, safety, and welfare of buildings and consumers at risk.
- 3) Fossil Fuels space heating equipment should be banned in new construction.
- 4) Assemblies and components R & U values should adhere to the following metrics adequate to the VT climate:

Walls & Overhanging Floors (above grade) R 40 - 56

Roofs R 72 - 84

Walls & Floors (Below Grade) R 20 -36 Continuous

Ceilings (Unconditioned Basement / Crawlspace) R 26 - 42

Windows & Doors (Whole-Window/Door) U-value 0.19 - 0.11

These metrics have proven around the nation to be vital for curbing energy demand, improving indoor health and comfort conditions of occupants, and substantially contribute to a sustainable electrical grid development based on renewable sources.

VTPH and its members have regularly and steadfastly testified to the VT Public Service Department (PSD) and to LCAR that the energy standards are essentially a building code. VTPH's designee on PSD's RBES Advisory Committee for 2023 amendments were specifically prohibited from discussing enforcement.

Both the current (2020) and the proposed (2023) RBES have this disclaimer: *For the purposes of this code, the Vermont Public Service Department is not the authority having jurisdiction.*¹ While municipalities may adopt RBES and may designate officials to administer RBES, neither the municipalities nor the officials have any authority to enforce or to ensure health, safety, and welfare related to energy codes. The Division of Fire Safety (DFS) has authority over rented and multi-family buildings for all building issues except energy codes. The authority to administer energy codes for any kind of

¹ 2020 RBES 101.6 and Definitions.

construction (residential or commercial) has not been granted by the State of Vermont to any entity.²

The proposed updates to RBES without enabling administration and enforcement increase the probability of personal and economic harm, and are not consistent with State energy or housing policies.³

Secondly, RBES regulates details of wall assembly and performance. Energy efficient buildings are complicated systems that rely on sound building science and best practices that meet code requirements to ensure occupancy safety; when corners are cut due to lack of education, administration, and enforcement, the consumer is put at risk. Wall assemblies proposed in the revisions are not universally applicable and likely to create problems with mold in certain climates. In conjunction with non-existent administration: no variance process, no appeals process, no project review, and no enforcement of energy-code-related construction, failures in coordination with other building systems present a danger to health, safety, and welfare. The increasingly restrictive 2023 RBES requirements are not technically reliable with respect to sound building science and continue to lack oversight and administration. The probability of damage such as mold, and cost to consumers increases. Egregiously they also undermine collective efforts to meet imperative statewide 2030 energy goals.

Lastly, while standards are becoming more stringent, compliance is actually decreasing; "The overall compliance rate of 54% represents a drop from a 2015 study which found a code compliance rate of 66% with the 2011 RBES. The drop in compliance is likely due to 1) weak code enforcement, 2) unchanging building practices as RBES gets stricter and code advances, 3) lower program penetration." ⁴

While VTPH strongly supports the undertaking of RBES and smarter building practices to meet 2030 energy goals, the lack of a clear authority to administer and enforce the code, and the problematical wall assemblies currently being proposed, as well as the relaxed metrics proposed are causes of grave concern. We would be remiss to not voice these and call for delay of the 2023 RBES updates.

Sincerely
Vermont Passive House, vermontpassivehouse.org

Christopher Miksic / Enrique Bueno
President/ Executive Board

² 20 VSA SS 2728 ff covers the Division of Fire Safety. 24 VSA SS 3101 ff covers Building Inspectors and Regulation of Building; it only covers building systems regulated by Division of Fire and Safety.

³ 30 VSA SS51 states any amendments to the RBES shall be: a) consistent with duly adopted State energy policy, as specified in section 202a of this title, and consistent with duly adopted State housing policy; b) evaluated relative to their technical applicability and reliability; and c) cost-effective and affordable from the consumer's perspective.

⁴https://publicservice.vermont.gov/sites/dps/files/documents/VT_2020_SF_RNC_Baseline_Final_Report_Jan242023.pdf