

June 30, 2025

Land Use Review Board / Act 250

Act 181 Report

Wood Products Manufacturers

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I. Executive Summary

The following actions are recommended by the Land Use Review Board to support wood products manufacturers (WPM):

1. Develop a WPM Fact Sheet and Supplemental Guidance to help ensure that WPM are aware of all benefits in place for this sector. This would include availability of the minor application process; one to one primary agricultural soils mitigation ratio; special provisions for hours of operation and delivery; the “Stonybrook”¹ precedent, under which Act 250 jurisdiction may be limited to the project area (rather than the entire tract of land); and other existing provisions concerning logging and forestry operations in general.
2. Provide additional training to Act 250 program staff on the specific needs and provisions available to WPM applicants and potential applicants.
3. The Agency of Natural Resources (ANR) to offer WPM permit coordination and support.
4. Update Act 250 Rule 19 so that presumptions reflect current relevant ANR permits and determine whether ancillary permits can be obtained after Act 250 permitting and whether ancillary permits may be dispositive.
5. Update Act 250 Rule 34 to revise thresholds for substantial and material changes to allow for changes to reduce impacts without the need for a permit or permit amendment.
6. Revise Act 250 Rule 34(D) to allow district coordinators to issue administrative amendments for minor changes to WPM projects.
7. Evaluate use of Rule 16(D) for informal and non-adversarial resolution of issues, develop guidance as applicable, and provide related training.
8. Advocate for funding permit specialists, improved web-based tools, and/or ombudspersons with regulatory expertise to work across agencies.
9. Recommend that the legislature extend exemptions to forestry and logging like those that are available for farming under elevation 2,500 feet, provided existing permit conditions for permitted projects limiting tree cutting to address Act 250 criteria are not invalidated, and provided tree removal limits are available conditions for future projects to address Act 250 criteria.
10. Recommend that the legislature make changes to Act 250 regulation of log and pulp concentration yards.

Additional discussion and detail concerning these 10 recommendations is outlined in Section V of this report. For items that include legislative action (#9 and #10), the Board will submit proposed statutory language for consideration after additional study. Section VI provides discussion and details on ideas examined by the Board, FPR, the stakeholder group, and wood products manufacturers but not currently recommended for action by the Board.

II. Report Background

This report is provided pursuant to Act 181 of 2024 concerning the permitting of wood product manufacturers (“WPM”) and was developed by the Land Use Review Board (“Board”) in consultation with the Agency of Natural Resources (“ANR”), including the Department of Forests, Parks and Recreation

¹ Re: Stonybrook Condominium Owners Association, Declaratory Ruling #385, Findings of Fact, Conclusions of Law, and Order (May 18, 2001) (Stonybrook)

(“FPR”), and a convened stakeholder group. The Board gives thanks to FPR and to the individuals and entities that participated as members of the stakeholder group (see Exhibit B).

The Land Use Review Board (prior to January 1, 2025, known as the Natural Resources Board) is an independent entity in the executive branch of the Vermont state government whose primary function is to administer Act 250, Vermont’s land use and development law (10 V.S.A. Chapter 151). The program has 34 full-time employee positions and about 70 citizen appointees serving on district [commissions](#). The Board consists of five full-time members, appointed by the governor.

Under the directives of [Act 182](#) and [Act 47](#) of 2023, the Board completed a study that resulted in a consensus report entitled, [Natural Resources Board, Necessary Updates to Act 250](#). Subsequently during the 2024 legislative session, the general assembly enacted [Act 181, An act relating to community resilience and biodiversity protection through land use](#). The new legislation significantly modified Act 250 and requires that the Board undertake various rulemaking; administer a new system of tiered place-based jurisdiction; develop new administrative guidance and policy documents; commence regional plan review and approval; and complete a number of studies and reports.

One of the required reports concerns the permitting of WPM projects. The WPM report was initially due on December 15, 2024 (before the new Board was appointed and commenced its work on January 27, 2025), and this deadline was later extended until June 30, 2025, to allow the Board to undertake and complete its work in consultation with FPR and to ensure public input. Section 35 of Act 181 charges the Board as follows:

- (a) The Land Use Review Board, in consultation with the Department of Forests, Parks and Recreation, shall convene a stakeholder group to report on how to address the Act 250 permitting process to better support wood products manufacturers and their role in the forest economy.*
- (b) The group shall examine the Act 250 permitting process and identify how the minor permit process provided for in 10 V.S.A. §6084(g) has been working and whether there are shortcomings or challenges.*
- (c) The group may look at permitting holistically to understand the role of permits from the Agency of Natural Resources, municipal permits, where they apply, and Act 250 permits and develop recommendations to find efficiencies in the entire process or recommend an alternative permitting process for wood products manufacturers.*
- (d) On or before December 15, 2024, the Land Use Review Board shall submit the report to the House Committees on Agriculture, Food Resiliency, and Forestry and on Environment and Energy and the Senate Committee on Natural Resources and Energy.*

As directed in (b) above, the Board was tasked with identifying how the minor permit process established in 2018 has been working and whether there are shortcomings or challenges.

10 V.S.A. §6084(g)

When an application concerns the construction of improvements for one the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

- (1) a sawmill that produces three and one-half million board feet or less annually; or*
- (2) an operation that involves the primary processing of forest products of commercial value and that annually produces:*
 - (A) 3,500 cords or less of firewood or cordwood; or*
 - (B) 10,000 tons or less of bole wood, whole tree chips, or wood pellets.*

Since the minor permit process took effect, there have been 14 Act 250 applications for wood products manufacturing (“WPM”) projects. Of these 14 applications, 9 were processed as minor (no hearing) and 5 were processed as major with hearing, because either the 10 V.S.A. §6084(g) production rates were exceeded or because a hearing request occurred. The Act 250 file reviews show: the array of criteria and issues considered under the Act 250 process for these 14 WPM applications; the varied resource protection measures provided; strong participation from state agencies; and the review process provided for both new project locations and changes to existing projects.

Section 35 part (c) of Act 181 supported examination of “permitting holistically to understand the role of permits from the Agency of Natural Resources, municipal permits, where they apply, and Act 250 permits and develop recommendations to find efficiencies in the entire process or recommend an alternative permitting process for wood products manufacturers.” This report identifies a specific plan for the Board to advance the part (c) component of this legislative charge, by examining the relationship and timing of ANR permits, and also through recommended legislative changes, as further outlined in Section V.

Although one can look at the Act 250 file review information by itself and conclude that the minor process under 10 V.S.A. §6084(g) is working, the scope of reported challenges and concerns gleaned from the survey and from direct WPM feedback indicates that Act 250 can be enhanced to better support WPM.

III. Study Methodology & Summary

Work on this wood products manufacturers (WPM) report commenced in summer 2024 under the Agency of Natural Resources (ANR) Department of Forests, Parks and Recreation (FPR) and the following general study methodology was initially planned by FPR in coordination with the Natural Resources Board and staff:

- Administer surveys of Act 250 applicants and permittees (all categories, WPM only);
- Conduct interviews of WPM Act 250 applicants and permittees;
- Act 250 file reviews for WPM applications; and

- Convene stakeholder group comprised of member volunteers from the Vermont Forest Future Strategic Roadmap Implementation Steering Committee (“ISC”).²

The newly formed Land Use Review Board commenced its work on January 27, 2025, and initiated additional study activities in coordination with FPR, as outlined in the timeline which is provided in Exhibit A. This included:

- Two meetings of an expanded stakeholder group;
- Supplemental outreach to WPM Act 250 applicants;
- Board drafting, review, and oversight of report content; and
- Designated 14-day public comment period allowing the general public to submit comments on a draft report at a Board meeting (held both in person and via remote Teams option) or alternatively in writing via email or letter.

IV. Results

A. Survey

The survey was transmitted to 186 contacts (application primary contacts) for sampled Act 250 applications representing a broad range of project types. The list represented a 10% stratified random sample of Act 250 permit records from 2017 through 2024. The identified contacts were invited to submit an anonymous survey. Because Act 250 permit applications are more common in some parts of the state, the sample of applications was stratified by district and application type to avoid over- or under-representation. Districts with more Act 250 permit applications had more files selected for the survey. The survey yielded a response rate of approximately 33%, with a significant portion of surveys received from contacts of Act 250 projects located in the Chittenden County area.

While the survey asked questions and invited feedback concerning local and other state permits, the survey was not transmitted directly to the contact persons for these other permit processes nor are they representative of a robust set of such other permits. Consequently, the reported experiences focus mostly on Act 250 and are less focused and substantive concerning local and other state permits.

FPR analyzed the raw survey data, with the assistance of the Board. This work included assigning one or more “feedback categories” to narrative responses. FPR then compiled survey highlights (Exhibit C). Survey respondents indicated that they were most knowledgeable concerning Act 250 and local permitting, and less knowledgeable concerning other state permits. Dissatisfaction with process was the most influencing factor for both Act 250 and other state permits. More respondents reported dissatisfaction with Act 250 permitting, in comparison to local and other state permitting, with process being the most influencing factor for both Act 250 and other state permits. As identified in the summary, 50% of respondents reported experiencing that the Act 250 permit process was very complex, compared to 7% of

² The Forest Future Strategic Roadmap is a 10-year strategic plan to protect the long-term viability of forest-based businesses and the many benefits they provide to our state’s environment, economy, and quality of life. Development of the Roadmap began in November 2022 and concluded in March 2024 with the release of the Strategic Roadmap Final Report. The Roadmap contains 30 recommended actions that require both a multi-stakeholder approach to implementation and a long-term plan for action. In April 2024, the Commissioner of Forests, Parks and Recreation created the Implementation Steering Committee to act as a continuation of the Roadmap Advisory Panel and to provide direct advice and input to the Commissioner, the Legislature, and partners on the implementation of the Vermont Forest Future Strategic Roadmap.

respondents reporting a very complex permit process for other state permits, with the municipal permit process reported as the least complex.

Based on the survey results received from Act 250 application contacts (and not from other stakeholders to the Act 250 process, nor specifically from or limited to WPM project applicants³), primary Act 250 challenges were tallied. In order, starting with the most frequently cited challenge, they are:

1. Process: Time/Timeline (n=12)
2. Application: Completeness Requirements (n=7)
Cost: Overall (n=7)
Process: Reasonableness for scope/scale of project (n=7)
3. Consistency/Predictability: Requirements (n=6)
4. Process: Complexity (n=5)
Staff: Responsiveness/Availability (n=5)

In addition, the following primary challenge was reported for other state permits: Process: Time/Timeline (n=8).

B. Act 250 WPM File Review

Act 250 wood products manufacturer (WPM) application files were reviewed for time intervals 2003 through 2017 and 2018 through early 2025. This information is provided as Exhibits E and F. The 2018 to 2025 time interval represents the period since the minor permit process provided for in 10 V.S.A. §6084(g) took effect. The following summary highlights correspond to this period:

- 14 Act 250 applications for WPM projects (± 2 per year).
- 6 permit applications (new projects).
- 8 permit amendment applications.
- 0 administrative amendments.
- 14 permits issued: 3 Major, 2 Minor to Major, 9 Minor (64%).
- 0 permit denials.
- 1 of the major permit amendments was abandoned by the permittee.
- 1 project was near a town or village center (Hyde Park), all others were 1-4 miles away in a variety of more rural and mixed-use settings.
- 1 project was located in an industrial park.
- Average of 32 days to notice issued from date of first application item received.
- Average of 130 days to permit issued from date of first application item received, and omitting an outlier concerning a stormwater permit issued but not filed for 2-3 years.
- 6 (43%) involved commission awaiting receipt of one or more ANR permits for an average of 99 days (omitting the outlier noted above). The ANR permits consisted of the following: Air Pollution (2 permits), Multi-Sector General (2 permits), Stormwater Discharge (2 permits), and Stormwater Construction General (2 permits).

³ FPR also transmitted an identical survey to an identified list of WPM Act 250 application contacts, however this survey transmittal to WPM did not yield responses.

- Average application fee adjusted for inflation was \$2,142 (omitting \$121K Ryegate outlier).
- 12 (86%) had formal participation from one or more state agencies.
- Formal participants included the Agency of Natural Resources (12 applications), Neighbor (4 applications), Agency of Agriculture Food and Markets (2 applications), Vermont Division for Historic Preservation (3 applications), Town (2 applications), Agency of Transportation (4 applications), Regional Planning Commission (2 applications).
- Act 250 criteria at issue in the 3 major and 2 minor to major applications were:
1 Air Pollution (including noise), 1B Stormwater, 1D Floodways, 1E Streams, 1G Wetlands, 4 Soil Erosion, 5 Traffic, 8 Aesthetics (including noise), 9B Soils (using the new 1:1 mitigation ratio). 9K Public Investments, 10 Local Plan.
- 7 (50%) permits with operating hours conditions.

Compared to the 2003 to 2017 period, the 2018 to 2025 Act 250 WPM information encompassed:

- decreased WPM Act 250 application volume;
- increased percentage of major (and minor to major) WPM Act 250 applications;
- increased ancillary state agency permits found within the WPM Act 250 permits;
- increased Act 250 WPM permits containing wetland conditions;
- reduced WPM administrative amendments; and
- consistent neighbor participation.

Fifty-nine percent of the Act 250 WPM applications (2004-2025) were for projects located in so-called “1-acre towns” (i.e., towns without both zoning and subdivision bylaws), which is higher than the statewide portion of 1-acre towns (46%). This aligns with the file review finding that the 2018-2025 WPM Act 250 projects tended to be in more rural or mixed-use settings outside of town and village centers.

The WPM Act 250 data is limited due to the limited number of WPM Act 250 applications (14 applications, for 2018 to 2025) for the period of primary focus for the study (i.e., the minor permit process provided for in 10 V.S.A. §6084(g), which took effect in 2018).

The stakeholder group discussed the concern about time, identified as a challenge by Act 250 applicant contacts in the survey, compared to the actual Act 250 application processing time as informed by the file review. The WPM Act 250 file review revealed that the 2018 to 2025 Act 250 WPM application processing time averaged 130 days (first application component received to date of decision issued) which was not seen as particularly unreasonable. Some members of the stakeholder group pointed to the time necessary to prepare applications (Act 250 and ANR) as the activity of concern with respect to time.

C. WPM Outreach & Stakeholder Group Meetings

In addition to the information gleaned from the survey and Act 250 wood products manufacturer (WPM) file review, the following additional topics were identified by WPM and by members of the stakeholder group. Two meetings of the stakeholder group were convened in person with remote Teams options on April 22, 2025, in Barre and on May 15, 2025, in Montpelier. The meeting agendas and notes are provided as Exhibits K and L.

Supplemental outreach to WPM Act 250 applicants was also undertaken by FPR and by the Board, in follow-up to the lack of survey responses from WPM. Between FPR and the Board, eight WPM Act 250 applicants responded to a supplemental feedback opportunity which occurred via a Teams meeting invitation and via individual phone call outreach. The supplemental WPM feedback received included a non-technology WPM applicant. The supplemental WPM feedback is included within the summary below, which also encompasses the other input from stakeholder group members.

- The survey only went to Act 250 applicants, however there are many other Act 250 stakeholders who were not surveyed.
- The survey was sent to all categories of Act 250 applicants. Results are believed to reflect the challenges and concerns of WPM.
- Examine the application of rules concerning substantial and material changes and the use of administrative amendments to better accommodate changes to existing permitted WPM projects. These rules define when Act 250 jurisdiction applies to changes to existing permitted projects and define use of a simpler, truncated administrative process for amendments to existing projects. Should an Act 250 permit or permit amendment be triggered when the purpose of the project is to reduce impacts? Examples cited included implementation of a new stormwater treatment system necessitated by the new 3-acre stormwater rule, modernization of saws and kiln equipment, and switching from diesel generators to 3 phase power. Should these kinds of changes to existing permitted WPM projects require an Act 250 approval? If so, can these types of changes be handled as administrative amendments?
- Explore ways to resolve issues earlier in the process to avoid costly redesigns and perhaps avoid the need for a hearing. The structure of the Act 250 permit process allows issues to be raised after considerable investment in engineering design. Is there a way to identify and resolve issues earlier in the process and before full project design and investment occurs or to fully resolve issues to negate the necessity for a hearing? Use of the existing partial findings process requires two applications. This can work for bigger projects but is not as well-suited to smaller ones. If an applicant must unravel other permits to address a neighbor issue it's a lot harder than if finality in the site plan can be achieved before doing the complex engineering.
- Examine the use of Rule 16(D) to accommodate WPM applications. Is this existing rule in use? If so, how and should it be put into more specific practice? For example, define and leverage a process to resolve contested issues as a component of a site visit. Similarly, could the district commission designate the coordinator to oversee informal resolution of issues? Relatedly, could there be a "minor plus" application path – not straight from minor to major just because a hearing might be needed, instead provide an opportunity to resolve the issue based on input from the applicant and the party requesting the hearing.

Act 250 Rule 16 (D)

Informal and non-adversarial resolution of issues. In the normal course of their duties, the District Commissions shall promote expeditious, informal and non-adversarial resolution of issues, require the timely exchange of information concerning an application and encourage participants to settle differences in any Act 250 proceeding. The District Commissions may require the timely exchange of information regardless of whether parties are involved in informal resolution of issues.

- Cumulative scope and timing of ANR permits is a concern. Substantive technical information and/or engineering must be completed and submitted for review before ANR permits can be concluded, and by extension before the Act 250 permit can be concluded.
- Some WPM facilities are in complicated places, e.g., mills next to rivers or right downtown. If one were to site a location today, it wouldn't be put there. Such locations can create added challenges.
- Timing of local review. Some towns, particularly more rural ones, like to see the Act 250 decision first because it gives the town the confidence to make its decision. Support the issuance of the Act 250 permit decision prior to the local review.
- Loss of the ANR permit specialist program providing a live person to answer questions and offer general permit support and guidance for the non-Act 250 permits was cited as a concern. ANR's online permit navigator is more helpful to consultants, less helpful to other "mom and pop do it yourself" applicants.
- ANR Department of Environmental Conservation outreach to specific industries could be helpful. For example, "brewery day" was helpful and successful for the microbrewery sector. Might something like that be done for WPM?
- Impact of Act 250 on logging and forestry due to Act 250 permit conditions that restrict tree cutting is a concern. For example, there are Act 250 permit conditions limiting tree cutting to protect necessary wildlife habitat such as for a deer wintering area, requiring a forested no-cut buffer to avoid an unduly adverse aesthetic impact.
- Impact of Act 250 on logging and forestry due to Act 250 permit conditions, particularly for land enrolled in Use Value Appraisal ("UVA") is a concern. Some owners have had to modify their UVA forest management plan in connection with Act 250 permit decisions for regulated development or subdivision.
- Request to extend to logging and forestry operations benefits similar to those for farming as provided by 10 VSA §6001(3)(E) and 10 VSA §6081(s).
- Request to limit jurisdiction on a parcel only to only the area supporting the Act 250 development. This would involve application of the Environmental Board's 2001 Stonybrook decision.
- Request to exempt logging and forestry under elevation 2,500 feet on parcels with existing Act 250 permits.
- The need for balance between economic development and protecting the environment was put forth. The system is felt to be weighted more heavily towards protecting the environment.
- Desire to address and minimize neighbor concerns, both for WPM and for neighbors, was expressed.
- Interest in developing standard conditions as "rebuttable presumptions." Such a standard would not be required but would be an available standard to satisfy Act 250 criteria. As a rebuttable presumption, if appealed, the burden is on the person appealing to prove it's not enough to satisfy the Act 250 criteria. Develop standards that are available to address issues and don't invite opposition from neighbors, for example, noise standards.

- It was pointed out that there are no known recent appeals of WPM Act 250 permit decisions.⁴

V. Recommended Actions

The following are ideas selected by the Board for implementation or further development.

1. **Develop WPM Fact Sheet and Supplemental Guidance**, to include:
 - a. Explanation of all Act 250 terms, items, and opportunities that are specific and beneficial to the WPM sector (e.g., minor process; 1:1 primary agricultural soils mitigation ratio; special provisions for hours of operation and deliveries).
 - b. List of likely collateral ANR permits and relevant contact information.
 - c. Notice of coordinated ANR pre-application review for WPM with dedicated contact point at ANR policy & planning office.
 - d. Notice that ANR permits may be pursued concurrently with Act 250 permitting and applicants may apply without reliance on ANR permit(s) under Act 250 Rule 19. Also, local permitting (when applicable) may be initiated before or after Act 250 permitting.
 - e. Notice that logging and forestry are exempt (below elevation 2,500 feet) pursuant to 10 V.S.A. §6001(3)(D) with a referral to the district coordinator for a jurisdictional opinion concerning a specific project.
 - f. Notice that a WPM applicant can apply for a “Stonybrook” determination as a component of an Act 250 application, with referral to the district coordinator for further guidance. The Stonybrook feature of Act 250 requires a supplemental map and an analysis to identify and establish the scope of land that supports and is impacted by the development. This information is reviewed by a district commission as a component of an Act 250 application. A map and analysis are necessary information pursuant to the Stonybrook precedent (Stonybrook Condominium Owners Association, DR #385, FCO at 9 - 18 (5/18/01)) and related [Stonybrook Guidance](#) (see Exhibit I). A district commission determines a “Stonybrook” project area based on this review.
 - g. Notice of definitions and specific opportunities or requirements relevant to log and pulp concentration yards (also known as log and pulp storage yards and log and pulp transfer stations)
 - h. Notice that WPM with existing Act 250 permits containing conditions for hours of operation may apply for revised hours under 10 V.S.A. §6086(c)(2). The notice will include referral to the Act 250 website and district coordinator for application instructions.
 - i. A list of whom to call with questions about Act 250 with contact information.
 - j. Notice that Act 250 program staff are available to assist prospective WPM developers with pre-purchase site evaluation. For example, if a specific site is under consideration for acquisition for WPM development, a district coordinator can provide pre-application guidance that could

⁴ Anecdotally one WPM applicant abandoned the project instead of appealing the permit decision due to prohibitive resources required to appeal.

materially help inform site selection by the developer with early identification of issues and an opportunity for reduced regulatory complexity

The new WPM Fact Sheet and Supplemental Guidance will be developed by the Board with input from the ANR Policy & Planning Office. FPR will support outreach and distribution efforts via its connections in the sector. The Board will include a link to the new WPM Fact Sheet and Supplemental Guidance in the Act 250 application guide and on the Act 250 website.

2. Provide additional WPM-focused Act 250 program training, and an Act 250 workshop for WPM and WPM-supporting entities

The Board will conduct these activities after the new Fact Sheet and Supplemental Guidance is finalized. Both the staff training and the WPM workshop are expected to consist of a Teams meeting presentation, led by the Act 250 state coordinator, and supported by others. The Board will invite input and participation from FPR, the ANR Policy & Planning office, and FPR's Implementation Steering Committee.

(A) Supplemental Act 250 program training for WPM projects. The Board will review its standardized draft Act 250 permit conditions relevant to WPM (e.g., special provisions for hours of operations and 9B soils mitigation), together with other content that is specific to WPM.

(B) Act 250 Workshop for WPM and supporting entities. The Board will offer a workshop to go over the new Fact Sheet and Supplemental Guidance, and answer questions from WPM, their representatives, or other interested persons. This will be scheduled in the early evening to accommodate typical WPM work schedules.

3. ANR to offer specialized WPM permit coordination and support as is presently available for larger more complex projects.

4. Review and pursue update of Act 250 Rule 19 to:

- (i) update presumptions to reflect current relevant ANR permits;
- (ii) determine whether ancillary permits can be obtained after Act 250 permitting; and
- (iii) identify whether any of the ancillary permits may be dispositive.

This will involve detailed review of individual ANR permits relative to the Act 250 criteria. There was a range of perspectives within the stakeholder group, from supportive to concerned, particularly for item (iii)⁵.

5. Review and pursue update of Act 250 Rule 34 to clarify and/or revise the thresholds for substantial and material changes that trigger the need for a permit or permit amendment under Act 250. At a minimum, the Board's review will determine if and when an Act 250 permit or permit amendment is triggered for WPMs when the purpose of a change to a project is to reduce impacts (e.g., stormwater treatment system necessitated by ANR 3-acre stormwater rule, switching from a diesel generator to three-phase power, or general equipment modernization).

⁵ The Vermont Natural Resources Council (VNRC) argued that if an ancillary permit is to provide a rebuttable presumption of compliance with an Act 250 criterion, it should be examined during the Act 250 permitting process, versus being submitted after. Also, VNRC expressed concern about making an ancillary permit dispositive because the permit may not touch on all aspects of a certain criteria, and the process for ancillary permits may not allow the same type of examination of the project and its impacts. VNRC advocated that allowing permits to serve as a rebuttable presumption is more equitable to all of the parties involved, while still providing an applicant with a certain level of efficiency.

6. **Review and pursue update of Act 250 Rule 34(D)** to allow a district commission to authorize a district coordinator to issue an administrative amendment for minor changes to permitted projects which may, in some cases, encompass impact(s) under the Act 250 criteria. This would expand the availability and potential use of administrative amendments. The Board's review will consider WPM project change examples of the type listed under (5) above.
7. **Evaluate use of Rule 16(D)** concerning informal and non-adversarial resolution of issues as a component of application review. Determine if more specific guidance and training would be helpful, in consultation with the district commissions or commission chairs and district coordinators. This review will encompass how issues may be resolved based on input from the applicant and a party requesting a hearing, without convening a hearing. The Board will develop Rule 16(D) guidance as applicable and offer related training to district commissions and district coordinators. For reference, the existing Rules 16D, 19, and 34 are provided as Exhibit J.
8. **Advocate for funding permit specialists, improved web-based tools, and/ or ombudspersons with regulatory expertise**, to support applicants and prospective applicants, and any others participating in a state or municipal regulatory permitting process or appeal of a permit decision (e.g., local official, neighbor, etc.). The stakeholder group expressed a desire for WPM or an all-purpose permit specialist to be a live person such as an ombudsperson with regulatory expertise. The ombudsperson would: (a) answer questions and provide pre-application guidance for all permitting needs (Act 250, ANR and other state agencies, and municipal); (b) ensure that regulatory systems are accessible to all persons; (c) disseminate information including available opportunities such as grants; (d) be a consistent contact for applicants to receive assistance and guidance throughout the various permitting processes required for their projects; (e) track permittee experiences and compile feedback for the relevant regulatory agencies; and (f) oversee continual improvement of web-based tools (e.g. artificial intelligence integration). ANR's online permit navigator can be useful for professional consultants but can present barriers to use by non-technical users or those without access to the internet. The Act 250 program already has district coordinators in this role for guidance concerning Act 250.

The Board recognizes the value of providing such a service to support applicants to successfully negotiate the various state and local permitting processes. The Board has obligations under the State's Environmental Justice statute,⁶ which require state programs⁷ "to provide the opportunity for the meaningful participation of all individuals, in the development, implementation, or enforcement of any law, regulation, or policy." This topic will also be captured as a component of the Board's separate study of appeals under Act 181, where a similar or related need has already been identified and where there may be an opportunity to support having the role address appeals-related needs as well. Therefore, the Board may pursue and advocate for the creation of such an office or positions that would serve all permitting programs.

⁶ Vermont Environmental Justice Legislation, Act 154 of 2022 (3 V.S.A. §6003) states:

It is the policy of the State of Vermont that no segment of the population of the State should, because of its racial, cultural, or economic makeup, bear a disproportionate share of environmental burdens or be denied an equitable share of environmental benefits. It is further the policy of the State of Vermont to provide the opportunity for the meaningful participation of all individuals, with particular attention to environmental justice focus populations, in the development, implementation, or enforcement of any law, regulation, or policy.

⁷ The agencies covered by the Vermont Environmental Justice legislation are Agency of Natural Resources, Agency of Transportation, Agency of Commerce and Community Development, Agency of Agriculture, Agency of Education, Public Utility Commission, Land Use Review Board, Department of Health, Department of Public Safety, Department of Public Service, and Office of Racial Equity.

9. **Extend benefits to logging and forestry that are similar to those conferred to farming** pursuant to 10 VSA §6001(3)(E) and 10 VSA §6081(s). Farming, like logging and forestry, is not subject to Act 250 jurisdiction below elevation 2,500 feet.

§6001(3)(E)

When development is proposed to occur on a parcel or tract of land that is devoted to farming activity as defined in subdivision (22) of this section, only those portions of the parcel or the tract that support the development shall be subject to regulation under this chapter. Permits issued under this chapter shall not impose conditions on other portions of the parcel or tract of land that do not support the development and that restrict or conflict with required agricultural practices adopted by the Secretary of Agriculture, Food and Markets. Any portion of the tract that is used to produce compost ingredients for a composting facility located elsewhere on the tract shall not constitute land that supports the development unless it is also used for some other purpose that supports the development.

§6081(s)

(1) No permit amendment is required for farming that:

(A) will occur on primary agricultural soils preserved in accordance with section 6093 of this title; or

(B) will not conflict with any permit condition issued pursuant to this chapter.

(2) Permits shall include a statement that farming is permitted on lands exempt from amendment jurisdiction under this subsection.

Extending such benefits, as already available for farming, to logging and forestry may be beyond the scope of this wood products manufacturers report however the Board will draft language requesting the legislature make this change to Act 250, to help support the forest economy. The change cannot create a “blanket” exemption as it would potentially conflict with or invalidate existing Act 250 permit conditions or preclude future Act 250 permit conditions.

10. **Log and pulp concentration yards.** There is considerable uncertainty in the wood products economy in Vermont and the northeast related to tariffs and border conditions with lumber sources located generally south of the Canada/US border, and existing mills generally located north of the border. Consequently, there may be a significant need for increased log storage in Vermont, while increased manufacturing capacity is developed south of the border. Historically, these log concentration yards (also known as log/pulp storage yards, transfer stations, stock yards, aggregating yards, or sorting facilities), were treated as components of logging activities and thus generally exempt from Act 250 jurisdiction where located below elevation 2,500 feet. See Advisory Opinion #EO-91-238 issued in 1991 (Exhibit M), and [JO 3-199](#). However, since a 2022 legislative change, the definition of “Wood Products Manufacturers” includes log and pulp concentration yards as wood products manufacturing facilities (see existing definition, emphasis added). Consequently, log and pulp concentration yards are no longer necessarily exempt from Act 250 jurisdiction below elevation 2,500 feet.

10 V.S.A. §6001(44)

“Wood products manufacturer” means a manufacturer that aggregates wood products from forestry operations and adds value through processing or marketing in the wood products supply chain or directly to consumers through retail sales. “Wood products manufacturer” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood; and log and pulp concentration yards. “Wood products manufacturer” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving wood products from forestry operations.

Given the Act 181 WPM study mandate to “address the Act 250 permitting process to better support wood products manufacturers and their role in the forest economy” together with the potential need to develop log and pulp concentration yards to support the forest economy, the Board will recommend changes to the definition of WPM, such as the following:

10 V.S.A. §6001(44)

“Wood products manufacturer” means a manufacturer that aggregates wood products from forestry operations and adds value through processing or marketing in the wood products supply chain or directly to consumers through retail sales. “Wood products manufacturer” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood; and ~~log and pulp concentration yards~~. “Wood products manufacturer” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving wood products from forestry operations

A revised definition could essentially “reinstate” the exemption for log and pulp concentration yards, with or without conditions. The Board may consider the following and other factors with respect to log and pulp concentration yards:

- i. Location (Tier 1B, Tier 3, below 2,500 feet, other).
- ii. Size of log and pulp concentration yard.
- iii. Separation from nearest residence and area of frequent human use, in consideration of air emissions such as noise.
- iv. Activities that could be included in the log and pulp yard use (e.g., tree limbing).
- v. Manufacturing activities.
- vi. Applicability of the FPR Acceptable Management Practices (AMPs) for Maintaining Water Quality on Logging Jobs in Vermont or Multi-Sector General Permit (MSGP) jurisdiction.

VI. Other Ideas Examined

- A. **Develop an Act 250 application form customized specifically for WPM.** Simplify the application and omit questions that are not relevant to WPM. This idea was not supported by the Board, given the limited number of WPM applications and the numerous other project types for which applications are also filed. Other sectors have expressed interest in a sector-specific applications, e.g. residential subdivision, commercial, mixed use, industrial park, master plan, ski area, sand & gravel pit, logging, etc. As for each of these other sectors, it is neither cost-effective nor justified to develop a specialized application for WPM.
- B. **Advocacy for funding a WPM permit specialist or ombudsperson** with regulatory expertise. The concept of advocacy for a permit specialist or ombudsperson specifically for the WPM sector was

not supported by the stakeholder group because it was seen as unrealistic and difficult to justify, given the limited sector-specific role and the lack of funding sources. The stakeholder group learned about related discussions underway as a component of the Board's separate study of appeals under Act 181, and the idea of a general permit specialist or ombudsperson (i.e. not specific to WPM) was put forward and comprises recommendation #8.

- C. Develop an optional industrial noise standard as a “rebuttable presumption” to address noise under Criteria 1 and 8.** An “industrial noise standard” could be developed and implemented in the form of a guideline with standard permit condition. If successful, the guideline could eventually become a rule. Importantly, this standard would not be a requirement, but simply a voluntary standard to satisfy noise emissions from industrial projects under Criteria 1 and 8 for WPM (and other industrial projects). If appealed, then the burden would be on the appellant to prove that the standard is not sufficient to address the impacts under the criteria. See examples of industrial noise standards in Exhibit O for the Public Utility Commission and the Town of Burke. The new industrial noise standard could incorporate relaxed noise-related requirements within approved “Enterprise” (i.e. industrial) land use areas as identified on approved regional future land use maps. Noise would be measured at the outer perimeter of the enterprise area, providing no homes or areas of frequent human use are located in proximity to the noise source under consideration. The Board will not advance this idea at this time, for WPM, due to concern from FPR about how such standards might be developed.
- D. Assign a single statewide Act 250 Coordinator for the WPM sector** to develop staff expertise in WPM operations. This idea was not supported by the Board due to the limited number of WPM applications relative to total applications received and the wide distribution of potential project locations. However, the Board acknowledged that the state coordinator could gain such expertise and provide guidance and training to district coordinators to better serve WPM applicants. In addition, the Board and stakeholder group agreed that a general permit specialist or ombudsperson as described in recommendation #8 would support some of the same objectives.
- E. Conduct Sector-specific outreach for WPM**, like the successful “brewery day” event hosted by the Agency of Natural Resources (ANR) Department of Environmental Conservation. ANR will consider offering such an event for WPM and implement when it is deemed feasible given resources available, competing priorities, and anticipated returns. In the meantime, ANR and the stakeholder group agreed that ANR’s participation in the other Board WPM outreach would align with these objectives.
- F. Adopt a “permit fast lane” for the WPM sector**
This concept was not supported by ANR due to numerous competing priorities.
- G. Change the Act 250 jurisdictional trigger for WPM to the 10-acre town standard.**
This would involve a statutory change that would eliminate the applicability of Act 250 jurisdiction over WPM facilities statewide regardless of the status of municipal zoning and subdivision bylaws. Under current Act 250 statute, regulated “development” (outside of the to-be-designated “Tier 1” areas) includes WPM on parcels of 1 acre or more in towns without both zoning and subdivision bylaws and on parcels of 10 acres or more in towns with both zoning and subdivision bylaws. This concept would treat all WPM as if they were located in a so-called 10-acre town thereby limiting Act 250 jurisdiction to new WPM projects located on tracts of 10 acres or more, statewide, regardless of local land use regulation. Several members of the stakeholder group expressed concern that such an approach would result in impacts not otherwise reviewed. The WPM file review information (Exhibits E and F) reveals examples of protections that would not occur under such a jurisdictional model. Fifty-nine percent of the Act 250 WPM applications for the 2004-2025 period were for projects located in so-called “1-acre towns” (i.e. towns without both zoning and subdivision bylaws) although only 46% of Vermont municipalities fall into the 1-acre town jurisdictional category.

According to the Department of Forests, Parks and Recreation (“FPR”), approximately 20% of the WPM applications from 2003 to 2023 occurred on parcels of less than 10 acres. FPR supports this exemption concept, noting its belief that, in many cases, the combination of existing ANR permits and local permits would ensure that environmental and land use impacts are reviewed, assessed, and mitigated. FPR is open to discussing other area-based thresholds that would reduce the Act 250 jurisdictional trigger for Act 250, such as a minimum of five acres of disturbed land, so that small wood products businesses, such as firewood businesses, can be established without having to go through Act 250. This is also mentioned in Item H, below.

However, the Board does not support changing the jurisdictional threshold to WPM projects located on parcels of 10 or more acres. This exemption for WPM projects on parcels of less than 10 acres may be problematic for the following reasons:

- (i) Most WPM projects are located in rural areas where local regulatory review is either limited or does not exist at all.
- (ii) If the WPM jurisdictional threshold is for tracts of 10 acres or more (or 10 or more acres of physical disturbance) statewide, then WPM development encompassing less than 10 acres of land may proliferate. This may result in considerable impacts that the Act 250 process and criteria would otherwise address. This is particularly important where municipal regulation is lacking.

- H. Exempt small scale WPM facilities below specific limited thresholds** Establish a new exemption for small-scale WPM, with maximum volume or production, maximum days of operation, and a noise standard. This concept would require Board rulemaking and a statutory change. The stakeholder group questioned whether the scope of benefit would be meaningful in comparison to other more impactful ideas, and whether it would be justified considering the work potentially required to pursue and implement for a small number of potential applicants. Consequently, the Board will not pursue this option at this time but could consider it in the future.
- I. Pre-Approve WPM Sites to facilitate new WPM development in Vermont.** This idea would involve planning to identify preapproved sites or locations for development of new WPM facilities. This could provide turn-key locations or locations where Act 250 permit jurisdiction or criteria could be relaxed. Development siting can be complex, involves consideration of transportation factors, and is best left to the private sector. Other stakeholder group members expressed interest in advancing the concept noting that, for example, a noise standard for a project located on a lot at an industrial park could be applied at the outer perimeter of the industrial park (versus at the individual interior lot lines). Regional planning work is underway in the form of future land use mapping using 10 future land use categories, including an “Enterprise” category (understood as “industrial”). Enterprise areas may allow for incentivized WPM siting and development. The Board will defer further potential action on the pre-approved sites idea until such time as ANR or another entity with similar WPM expertise has resources available to support such “pre-approved sites” planning work. Apart from pre-approved site planning, Act 250 program staff are available to assist prospective WPM developers with pre-purchase site evaluation. For example, if a specific site is under consideration for acquisition for WPM development, a district coordinator can provide pre-application guidance that could materially help inform site selection by the developer with early identification of issues and an opportunity for reduced regulatory complexity.
- J. Exemption of logging and forestry on parcels under elevation 2,500 feet with existing Act 250 permits.** FPR and some stakeholders voiced concerns about permit conditions that restrict logging and forestry operations on forest land. There was particular concern that some properties enrolled in the Use Value Appraisal (“UVA”) program have required modifications to existing, approved forest management plans to comply with Act 250 permit conditions. Of concern were restrictive tree clearing permit conditions that may conflict with forest management plans. These restrictions may

be attributable to: (1) protecting necessary wildlife habitat like a deer wintering area, (2) requiring a forested no-cut buffer to avoid an unduly adverse aesthetic impact, or (3) requiring an undisturbed riparian buffer for stream or river protection. Act 250 permit conditions may require a permit amendment or additional review or approval prior to commencement of logging and forestry operations on the tract.

District commissions may impose limitations on tree removal or cutting as a component of development design or permit conditions to satisfy Act 250 criteria. This can conflict with logging and forestry plans. Where land is subject to an existing Act 250 permit, logging and forestry remain exempt below elevation 2,500 feet and may proceed as long as tree removal does not conflict with an Act 250 permit condition. For example, a landowner may not conduct logging and forestry operations within a no-disturb stream buffer area in effect via an Act 250 permit but may conduct such operations elsewhere on the parcel. Exempting forestry and logging on all parcels under 2,500 feet with existing Act 250 permits could “undo” or vacate some tree clearing restrictions in effect. While the Board recognizes the existing statutory exemption for logging and forestry located below elevation 2,500 feet, the Board does not support language that could remove or interfere with protections in effect via existing Act 250 permit conditions or that may limit the ability of district commissions to restrict tree removal to avoid undue adverse impacts to resources.

- K. Stonybrook by Default.** Some stakeholders advocated that the Stonybrook process should be made available automatically for WPM. The Board will make known the availability of the Stonybrook mechanism to WPM applicants and prospective applicants via the new WPM Fact Sheet and Supplemental Guidance. This will help ensure that WPM applicants are aware of this existing Act 250 feature which can be particularly important and relevant to larger tracts of land. If land is used for logging and forestry (and perhaps also enrolled in UVA) and is located outside of a Commission-approved “Stonybrook” project area, then tree cutting in this area would not be restricted by an Act 250 permit condition. Land on the Act 250 tract located outside of the Stonybrook project area is not subject to potential permit amendment jurisdiction attributable to “material change.” Stonybrook can thereby reduce Act 250 permit obligations for landowners. The Board supports the use of Stonybrook for WPM, particularly on larger parcels. However, the Board does not support its use by default for WPM or any other type of applicant. The Stonybrook feature of Act 250 requires a supplemental map and analysis to identify and establish the scope of land that supports and is impacted by the development. This is a necessary component of the application review by a district commission before a project area can be defined. As an element of general Act 250 rule updates the Board may consider potential development and adoption of a “Stonybrook Rule” which would formalize this precedent.

VII. Conclusion

With implementation of the selected ten actions to be undertaken by the Board and the Agency of Natural Resources, including the Department of Forests, Parks and Recreation (FPR), this report identifies changes to the Act 250 permitting process to better support WPM and their role in the forest economy. This work developed in consultation with FPR was informed by a survey, in-depth Act 250 WPM file review, supplemental meetings and interviews with WPM, and meetings of a stakeholder group. Specific reported challenges and concerns of wood products manufacturers have been identified, discussed, and addressed in the findings of this report.

Coordination with ancillary ANR and municipal permitting was identified as a challenge; however, changes to these other permit processes are beyond the jurisdiction of the Board. A review of the minor permit process revealed that it did not resolve all challenges faced by WPM. Planned changes to Act 250 rules to support permitting of WPM facilities and drafting of statutory changes for log and pulp concentration yards and logging and forestry will be pursued as a result of this report. The ten actions recommended in this report will better support WPM and their role in the forest economy.

Exhibit

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O. Examples of Noise Standards, PUC and Town of Burke	O-1 to O-24
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This document has been prepared pursuant to Section 35 of Act 181 (2024), which requires that the Land Use Review Board submit this report to House Committees on Agriculture, Food Resiliency, and Forestry and on Environment and Energy and the Senate Committee on Natural Resources and Energy.