

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 WMP 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

Page(s)

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C. Survey Highlights	C-1 to C-10
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E. File Review – LURB	E-1 to E-4
F. File Review – FPR	F-1 to F-2
G. FPR Slide	G-1
H. Draft Act 250 Criteria and Rule 19 Presumptions	H-1
I. District Commission Stonybrook Training Resource	I-1 to I-5
J. 2015 Act 250 Rules Excerpts 16D, 19, and 34	J-1 to J-14
K. Agenda and Notes 4-22-25 Stakeholder Group Meeting	K-1 to K-15
L. Agenda and Notes 5-15-25 Stakeholder Group Meeting	L-1 to L-11
M. Advisory Opinion EO 91-238	M-1 to M-5
N. Existing Legislation	N-1 to N-2
O. Examples of Noise Standards, PUC and Town of Burke	O-1 to O-24
P. Written Comments Received	P-1 to P-11



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.

Following is a timeline and description of key events and activities that occurred during the Study work:

Summer 2024	Study methodology established.
Fall 2024	FPR staff identified WPM Act 250 files via Act 250 Database and key word search.
Dec 2024	Met with the Forest Roundtable to share general study information and status.
Jan – Feb 2025	<p>New Board designated a lead Board member to advance WPM report work.</p> <p>Developed survey questionnaire in consultation with the State’s Chief Performance Officer.</p> <p>Identified Act 250 permittees via random sampling.</p> <p>Researched and pre-tested email contact information.</p> <p>Transmitted the survey to 186 Act 250 application contacts.</p> <p>Compiled all identified WPM Act 250 files</p>
Feb 2025	FPR identified WPM Act 250 applicants and transmitted the survey and invitation to meet for interview (no replies received from WPM)
Mar - Apr 2025	<p>Survey results analysis.</p> <p>WPM Act 250 files reviewed and data compiled .</p> <p>Finalized stakeholder group invitees (stakeholder group expanded beyond the ISC).</p> <p>Met with key stakeholders to review preliminary information and identify conceptual ideas</p> <p>Stakeholder group meeting #1 (shared survey results, Act 250 file review data).</p> <p>Reviewed information, ideas, status, and next steps.</p>
May 2025	<p>Supplemental outreach to invite WPM feedback</p> <p>Stakeholder group meeting #2</p> <p>Board drafted report in consultation with FPR and stakeholder group</p>

June 2025	Public comment period and public meeting to receive feedback
	Report revised in consideration of public comment
	Report filed with legislature by June 30.



LURB Wood Products Manufacturers (WPM) Stakeholder Group

Invited Stakeholders, Participants

Charlie Hancock, Franklin and Grand Isle County Forester, ANR
Jennifer Mojo, Senior Planner, ANR
Billy Coster, Director of Policy and Planning, ANR
Jamey Fidel, General Counsel, Forest and Wildlife Program Director, VNRC
Nate Sicard, P.E., Ruggles Engineering Services, Inc.
Carla Fenner, PWS, CWS, Team Leader - Ecological Services, VHB
Mike Harris, Zoning Administrator, Town of Burke
Seth Jensen, Deputy Director, Lamoille County Planning Commission
Elisabeth Nance, Working Lands Enterprise Board, ACCD
Trey Martin, Director of Conservation and Rural Community Development, VHCB
Ornella Matta-Figueroa, Land Access and Opportunity Board
Jean Hamilton, Land Access and Opportunity Board
Denise Russo, Agricultural Loan Officer, VEDA
Tim Tierney, Director of Business Recruitment and International Trade, ACCD
Gwynn Zakov, Esq., Lobbyist for Vermont Forests Products Association
Steve Hardy, President, Vermont Forests Products Association
Allan Thompson, President, Vermont Woodlands Association
Scott Duffy (Rockledge Farm Woodworks), President, Vermont Wood Works Council
Sam Lincoln, Board Member, Professional Logging Contractors of the Northeast
Chris Fife (Weyerhaeuser) Vermont Forest Future Strategic Roadmap ISC
Annette Smith, Vermonters for a Clean Environment
Amy Robinson, Business Innovation Advisor, Northern Forest Center

LURB Contacts

Kirsten Sultan, Member, LURB
Brooke Dingleline, Member, LURB
Pete Gill, Executive Director, LURB

FPR Contacts

Katharine Servidio, Forest Economy Program Manager, ANR – FPR
Oliver Pierson, Director of Forests, ANR - FPR

Act 181 – Land Use Permitting Survey Highlights



Survey distribution and responses



Overall knowledge / general familiarity



Recent experience



How easy was it to submit your application?



How clear were the requirements to obtain your permit?



How complex was the process overall?



Most frustrating or challenging part of process

Survey distribution and responses

The survey was sent to the primary contact of randomly selected Act 250 permit application files. Because Act 250 permit applications are more common in some parts of the state, the sample of permit application files were stratified by district and application type to avoid over- or under-representation. District Commissions with more Act 250 permit applications had more files selected for the survey.

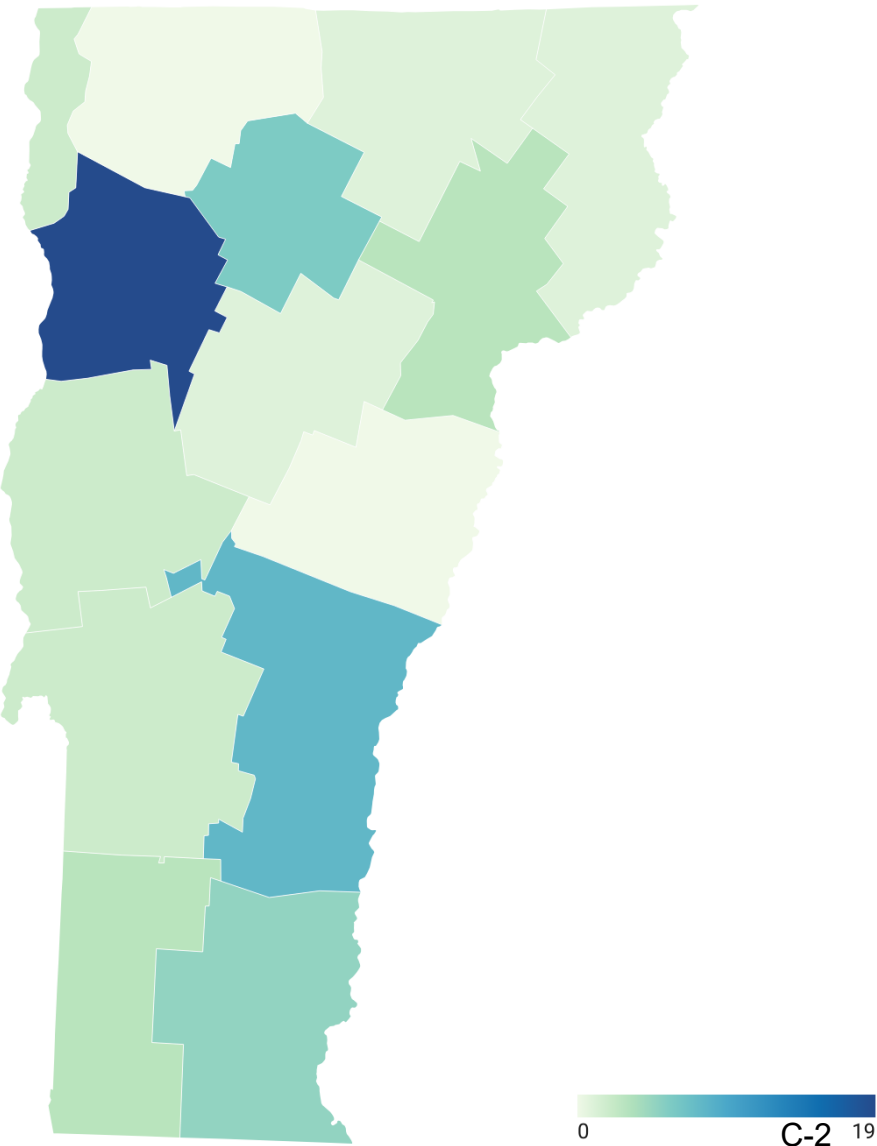
Survey response rate = ~33%

Reason for most recent Act 250 application



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

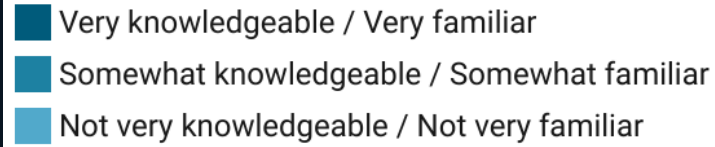
Land Use Permitting Survey Responses, By County



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

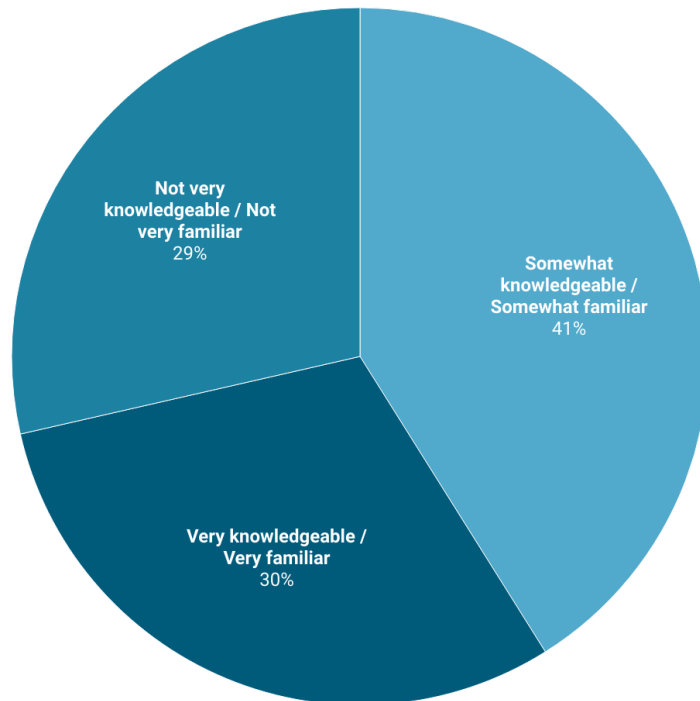
Overall knowledge / general familiarity

Level of overall knowledge or general familiarity



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

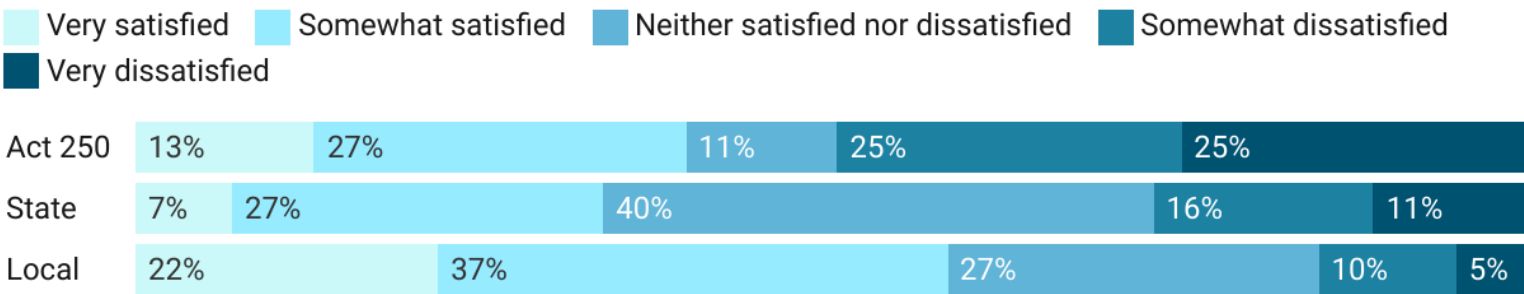
Level of overall knowledge or general familiarity with recent changes to Act 250



- Majority of respondents were very knowledgeable about Act 250, but much less so about the recent changes from Act 181.
- Respondents reported the least level of overall knowledge about other state permits.

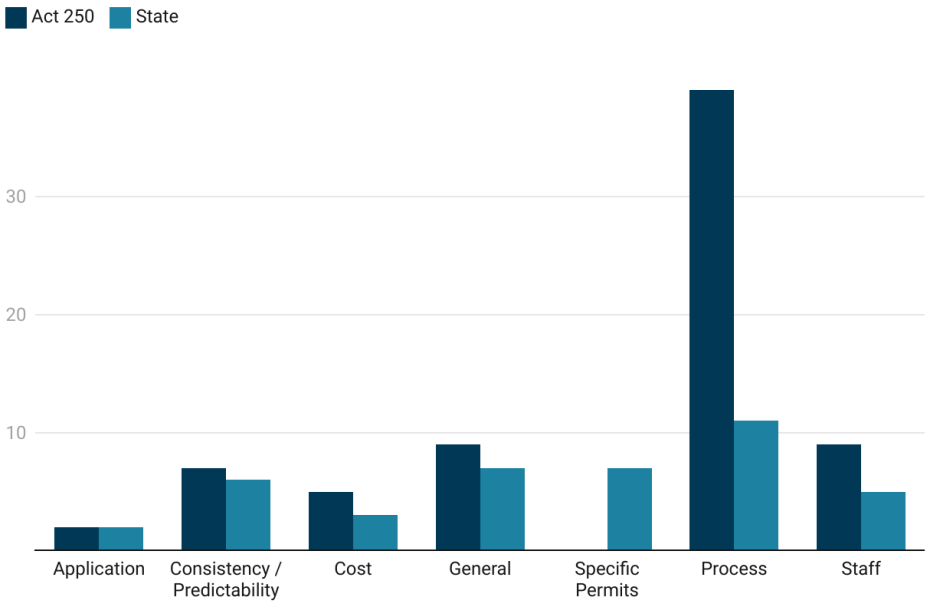
Recent experience

How would you rate your most recent interaction?



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

What factor most influenced your experience?

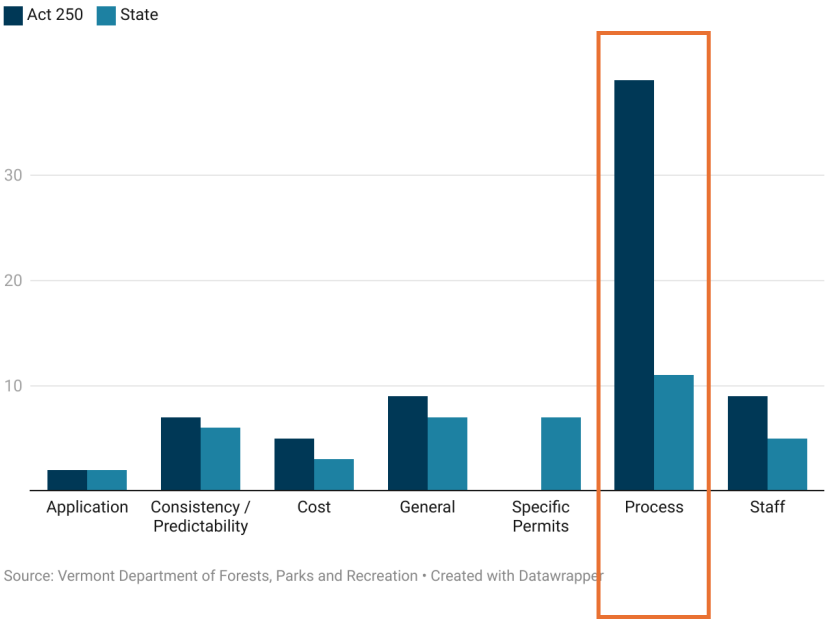


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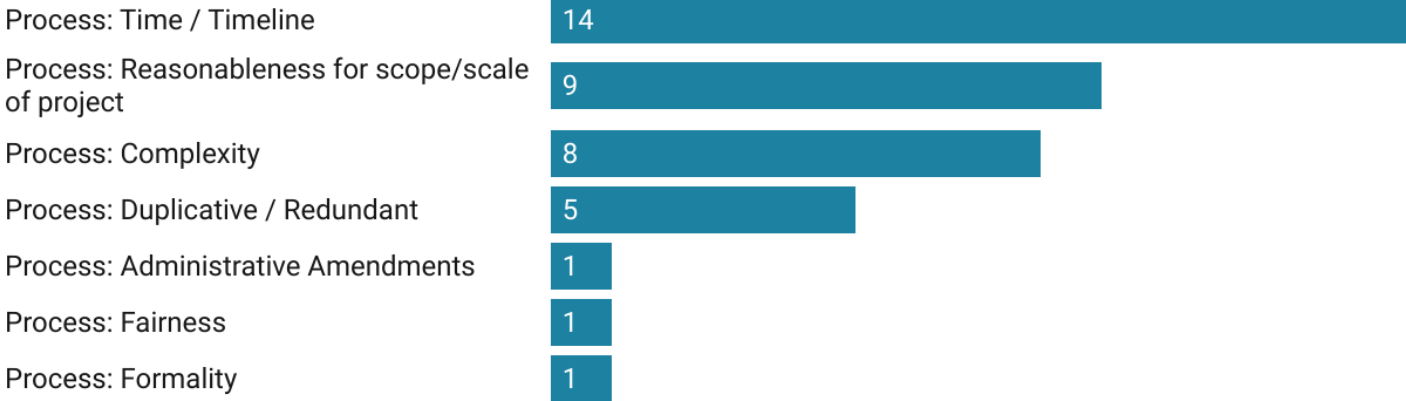
- More respondents reported being dissatisfied with their most recent Act 250 interaction than with other state permits and local permits/approvals.
- Process was the most influencing factor for both Act 250 and other state permits.

Recent experience

What factor most influenced your experience?



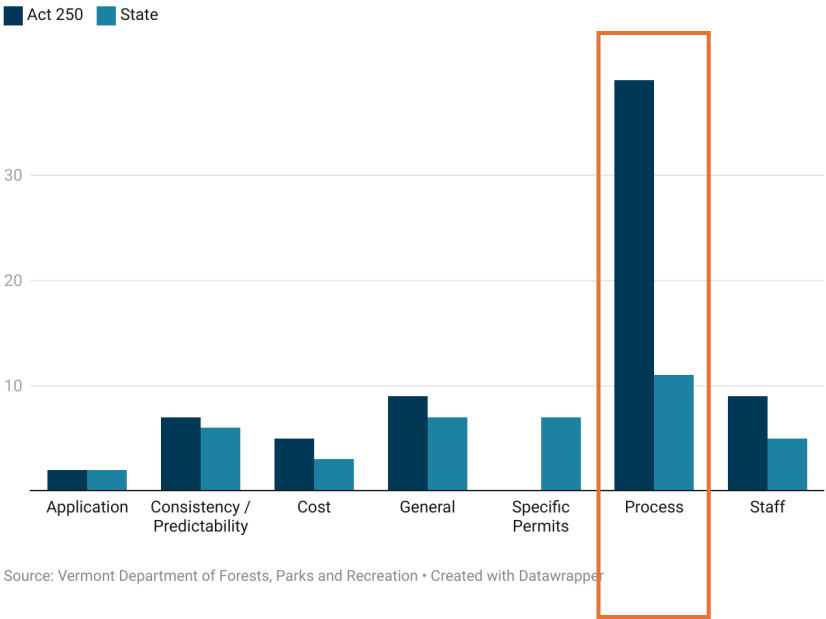
Act 250 - Process



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

Recent experience

What factor most influenced your experience?

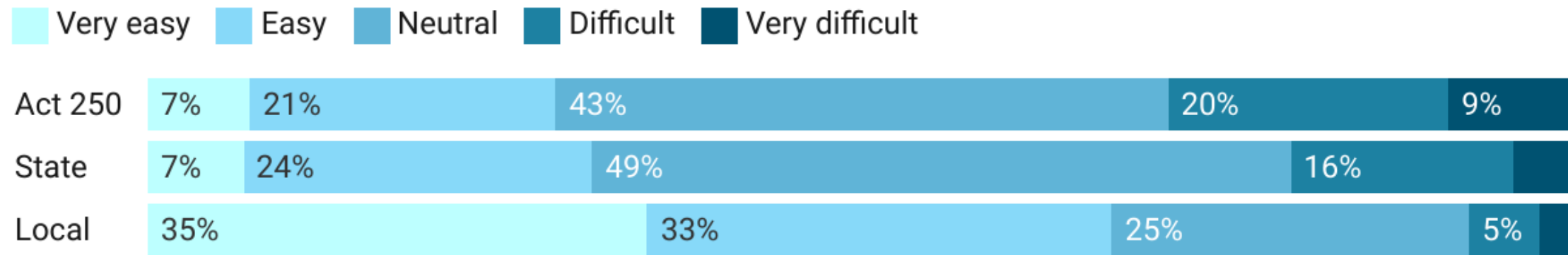


Other state permits - Process



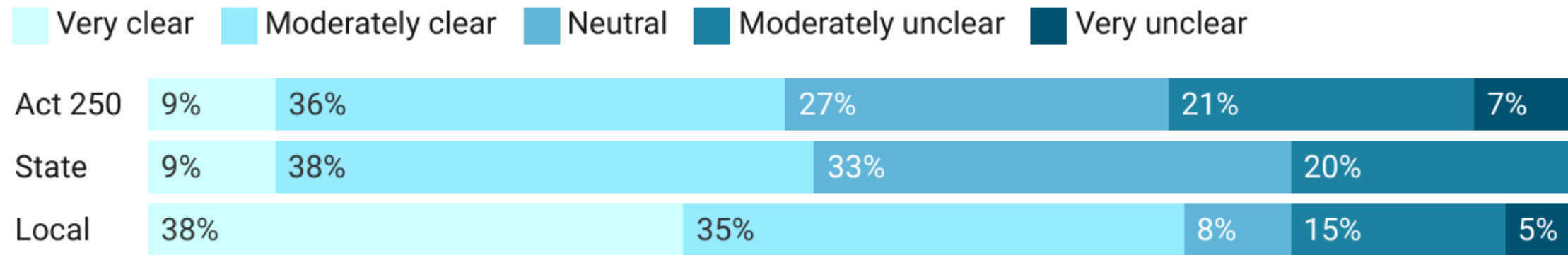
Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

How easy was it submit your application?



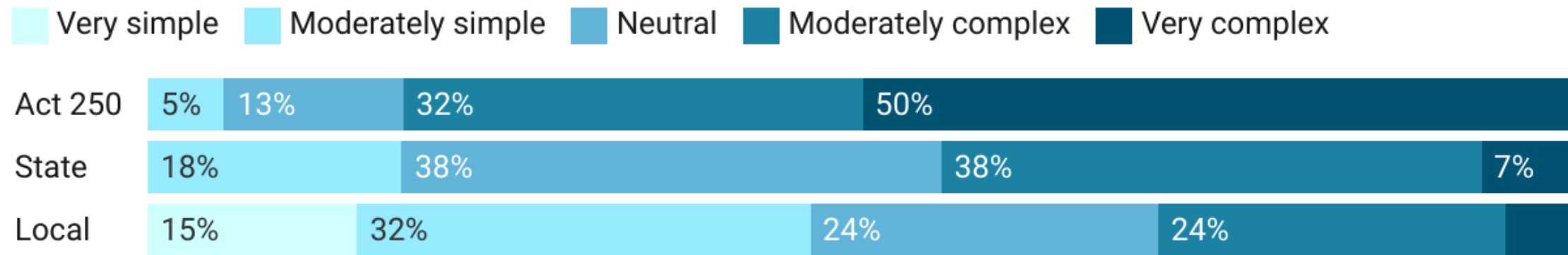
Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

How clear were the requirements to obtain your permit?



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

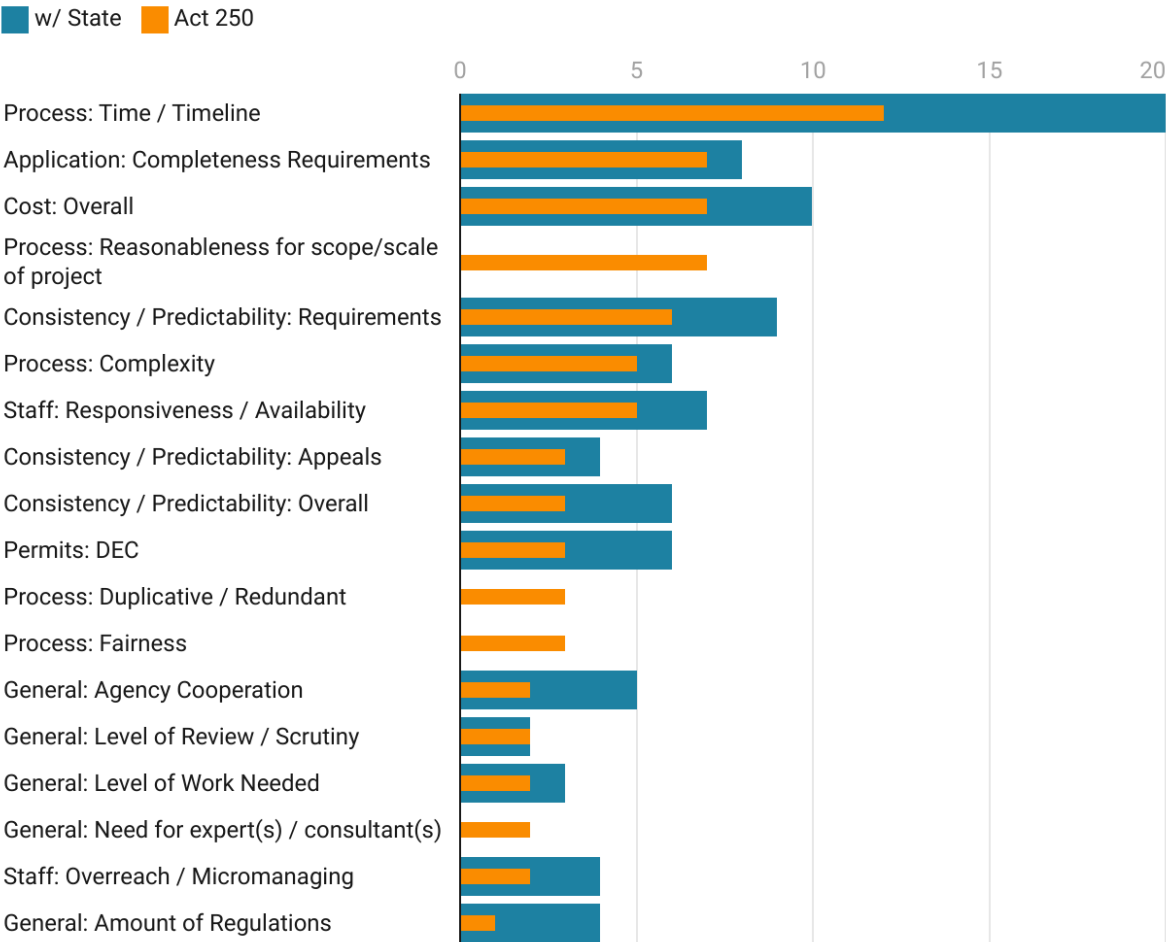
How complex was the process overall?



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

Most frustrating or challenging part of process

Act 250 - Most Frustrating or Challenging Part



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

Other State Permits - Most Frustrating or Challenging Part



Source: Vermont Department of Forests, Parks and Recreation • Created with Datawrapper

DRAFT - Land Use Permitting in Vermont: Perceptions & Experiences Survey

Questionnaire

Computer Assisted Web Interviewing (CAWI) – Instrument Specifications

Document Purpose

This document provides data users with the questions asked of respondents in the Land Use Permitting in Vermont: Perceptions & Experiences Survey questionnaire. It is organized by section and includes variable names, question text, response options, question universe, skip logic, and miscellaneous specifications. Because the contents of this document are instrument specifications that show the organization of the survey from the perspective of the person administering the survey, some contents may not be relevant to data users.

Table of Contents

Survey Section	Page
Landing Page	2
01 Overall Knowledge / General Familiarity	3
02 Act 250 Permits and Regulations	4
03 Other State Permits and Regulations (non-Act 250)	8
04 Local Permits and Regulations	13

Survey Section: Landing Page

“This survey is being conducting by the Land Use Review Board, in collaboration with the Vermont Department of Forests, Parks and Recreation. Invitations to complete the survey have been sent to the listed contact person of randomly selected Act 250 permit application records. Survey questions have been designed to offer anonymity for individual responses. If you wish to remain anonymous, please do not include any personal or project-specific information in your responses.

This survey is part of a larger effort to gather feedback on how to improve the permitting process and support the important role of wood products manufacturers in the forest economy. The results of the survey will contribute to a comprehensive understanding of the experiences reported, which will be included in a report that will be submitted to the Vermont legislature.

For questions about this survey, please contact Kirsten Sultan at the Land Use Review Board (kirsten.sultan@vermont.gov) or Katharine Servidio at the Department of Forests, Parks and Recreation (katharine.servidio@vermont.gov).”

Survey Section: 01 Overall Knowledge / General Familiarity

“This section asks about your level of overall knowledge or general familiarity with permitting in Vermont.”

VARIABLE GEN_ACT250	
Survey Question	How would you rate your overall knowledge or general familiarity with Act 250? 1. Very knowledgeable / Very familiar 2. Somewhat knowledgeable / Somewhat familiar 3. Not very knowledgeable / Not very familiar
Response Order	As listed

VARIABLE GEN_ACT250CHANGE	
Survey Question	How would you rate your level of overall knowledge or general familiarity with the changes that have been made to Act 250 in the past 12 months? 1. Very knowledgeable / Very familiar 2. Somewhat knowledgeable / Somewhat familiar 3. Not very knowledgeable / Not very familiar
Response Order	As listed

VARIABLE GEN_STATE	
Survey Question	How would you rate your level of overall knowledge or general familiarity with other state permits and regulations? 1. Very knowledgeable / Very familiar 2. Somewhat knowledgeable / Somewhat familiar 3. Not very knowledgeable / Not very familiar
Response Order	As listed
Misc Spec	Explanatory text: Examples of other state permits and regulations include air quality, stormwater, MSGP, and wetlands.

VARIABLE GEN_LOCAL	
Survey Question	How would you rate your level of overall knowledge or general familiarity with local permits and approvals such as zoning, development review, etc.? 1. Very knowledgeable / Very familiar 2. Somewhat knowledgeable / Somewhat familiar 3. Not very knowledgeable / Not very familiar
Response Order	As listed

Survey Section: 02 Act 250 Permits and Regulations

"This section asks about your recent experience with Act 250. If you wish to remain anonymous, please do not include any personal or project-specific information in your responses."

VARIABLE	ACT250_TOWN
Survey Question	You have been invited to complete this survey because you are a listed contact for an Act 250 permit record. Please enter the town where the project associated with your Act 250 application or permit is located. If you have projects in more than one town, please enter the town for your most recent permit application.
Response Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	ACT250_REASON
Survey Question	What was the reason you applied for or received your most recent Act 250 permit? 1. Subdivision or residential development 2. Commercial, industrial, or other non-residential development 3. Logging or farming above 2500' in elevation 4. I don't know
Response Order	As listed

VARIABLE	ACT250_WORKCHANGE
Survey Question	In the past 12 months, how would you rate the amount of work you have done to comply with Act 250? 1. Increased from previous years 2. Decreased from previous years 3. Stayed the same 4. I don't know
Response Order	As listed
Misc Spec	Response Required: Yes

VARIABLE	ACT250_CHANGEREASON
Survey Question	You have indicated that the amount of work you have done has increased or decreased from previous years. What would you say is the main reason for this change?
Universe	If R has increased level of work to comply with Act 250; If R has decreased level of work to comply with Act 250
Logic	Ask if ACT250_WORKCHANGE=1 or 2, else skip
Response Order	No response options
Misc Spec	Response Type: Text Entry

VARIABLE	ACT250_SATISFACTION
Survey Question	When you think about your most recent interaction with the Act 250 process, how would you rate your experience in general? 1. Very satisfied 2. Somewhat satisfied 3. Neither satisfied nor dissatisfied 4. Somewhat dissatisfied 5. Very dissatisfied
Response order	As listed

VARIABLE	ACT250_INFLUENCE
Survey Question	What factor has most influenced your experience with the Act 250 permitting process?
Response Order	No response options
Misc Spec	Response Type: Text Entry

VARIABLE	ACT250_CONSULTANT
Survey Question	Did you hire an outside consultant or advisor to assist you with the Act 250 permitting process? 1. Yes 2. No 3. I don't know
Response Order	As listed

VARIABLE	ACT250_COORDINATOR
Survey Question	In your most recent Act 250 permitting experience, did you contact the District Coordinator and/or other District staff prior to preparing or submitting your Act 250 permit application? 1. Yes 2. No 3. I don't know
Response Order	As listed

VARIABLE	ACT250_COORDINATORHELP
Survey Question	How would you rate your experience in contacting the District Coordinator and/or other District staff prior to preparing or submitting your Act 250 permit application? 1. Extremely helpful 2. Very helpful 3. Moderately helpful 4. Slightly helpful 5. Not at all helpful
Universe	If R contacted District Coordinator or District staff before application
Logic	Ask if ACT250_COORDINATOR=1, else skip

Response Order	As listed
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VARIABLE	ACT250_COORDINATORFEEDBACK
Survey Question	What feedback would you give the District Coordinator and/or District staff to better assist Act 250 applicants?
Response Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	ACT250_APPLICATION
Survey Question	How easy was it to submit your Act 250 permit application? <ol style="list-style-type: none"> 1. Very easy 2. Easy 3. Neutral 4. Difficult 5. Very difficult
Response Order	As listed

VARIABLE	ACT250_REQUIREMENTS
Survey Question	How clear were the requirements for obtaining an Act 250 permit? <ol style="list-style-type: none"> 1. Very clear 2. Moderately clear 3. Neutral 4. Moderately unclear 5. Very unclear
Response Order	As listed

VARIABLE	ACT250_COMPLEXITY
Survey Question	How would you rate the complexity of the Act 250 permitting process overall? <ol style="list-style-type: none"> 1. Very simple 2. Moderately simple 3. Neutral 4. Moderately complex 5. Very complex
Response Order	As listed

VARIABLE ACT250_SUGGESTIONS	
Survey	
Question	What suggestions do you have to improve the Act 250 permitting process?
Response	
Order	No response options
Misc Spec	Response type: Text Entry
VARIABLE ACT250_CHALLENGE	
Survey	
Question	What was the most frustrating or challenging part of the Act 250 permitting process?
Response	
Order	No response options
Misc Spec	Response type: Text Entry
VARIABLE ACT250_OTHER	
Survey	
Question	Is there anything else you'd like us to know about your experience with the Act 250 permitting process?
Response	
Order	No response options
Misc Spec	Response type: Text Entry
VARIABLE ACT250_WOOD	
Survey	
Question	Are you a wood products manufacturer? 1. Yes 2. No
Response	
Order	As listed Explanatory text: 10 VSA §6001(44) defines "wood products manufacturer" as a manufacturer that receives wood products from forestry operations and adds value through processing or marketing. Woods products manufacturer includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuelwood; and log and pulp concentration yards. This does not include facilities that purchase, market, and resell finished goods without first receiving wood products from forestry operations.
Misc Spec	

Survey Section: 03 Other State Permits and Regulations (non-Act 250)

“This section asks about your recent experience with other, non-Act 250, state permits. If you wish to remain anonymous, please do not include any personal or project-specific information in your responses.”

VARIABLE	STATE_PERMIT
Survey Question	Did you have to obtain any other type of state permit for the project associated with your most recent Act 250 permit or application? 1. Yes 2. No 3. I don't know
Response Order	As listed
Misc Spec	Explanatory Text: Examples of other state permits include air quality, wastewater, MSGP, and wetlands.

VARIABLE	STATE_PERMITTYPE
Survey Question	What other state permits did you need to obtain? 1. Air Pollution Control Permit 2. Wastewater System and Potable Water Supply (WW) Permit 3. Stormwater Discharge Permit (General, Individual, or Amendment) 4. Construction Stormwater Permit (General e.g. Low Risk etc., Individual, or Amendment) 5. Multi-Sector General Permit, MSGP, or Amendment 6. Underground Injection Control Permit 7. Solid Waste Facility Certification (or Amendment) 8. Hazardous Waste Permit 9. Stream Alteration Permit 10. Lake Encroachment Permit 11. Wetlands Permit (General, Individual, or Amendment) 12. Water Supply Source Permit (for new water source) 13. Water Supply Construction Permit (e.g., for public water system) 14. Other
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response Order	As listed
Misc Spec	Multiple Choice: Yes Response type: Text Entry for Other

VARIABLE	STATE_WORKCHANGE
Survey Question	In the past 12 months, how would you rate the amount of work you have done to comply with other, non-Act 250, state permits? 1. Increased from previous years 2. Decreased from previous years 3. Stayed the same 4. I don't know
Universe	If R obtained other state permits

Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	As listed
Misc Spec	Required Response: Yes

VARIABLE	STATE_CHANGEREASON
Survey Question	You indicated that your level of work to comply with non-Act 250 state regulations has increased or decreased from previous years. What would you say is the primary reason for this change?
Universe	If R obtained other state permits; AND If R has increased level of work to comply with state regs; OR If R has decreased level of work to comply with state regs
Logic	Ask if STATE_WORKCHANGE=1 or 2, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	STATE_SATISFACTION
Survey Question	When you think about your most recent interaction with the other, non-Act 250, state permitting process, how would you rate your experience in general? 1. Very satisfied 2. Somewhat satisfied 3. Neither satisfied nor dissatisfied 4. Somewhat dissatisfied 5. Very dissatisfied
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response order	As listed

VARIABLE	STATE_INFLUENCE
Survey Question	What factor has most influenced your experience with the other, non-Act 250, state permitting process?
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response order	No response options
Misc Spec	Response Type: Text Entry

VARIABLE	STATE_CONSULTANT
Survey Question	Did you hire an outside consultant or advisor to assist you in completing the non-Act 250 state permitting process? 1. Yes 2. No 3. I don't know
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip

Response Order	As listed
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VARIABLE	STATE_PERMITASSIST
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Survey Question	Did you use the online ANR Permit Navigator or contact an ANR Permit Specialist for a Project Review Sheet to help you determine what state permits you need? <ol style="list-style-type: none"> 1. Yes, I used the online Permit Navigator 2. Yes, I contacted a Permit Specialist for a Project Review Sheet 3. No, I did not use the Permit Navigator or contact a Permit Specialist 4. I don't know
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response Order	As listed

VARIABLE	STATE_PERMITNAV
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Survey Question	How would you rate your experience with the ANR Permit Navigator? <ol style="list-style-type: none"> 1. Extremely helpful 2. Very helpful 3. Moderately helpful 4. Slightly helpful 5. Not at all helpful 6. I don't know
Universe	If R obtained other state permits; AND If R used Permit Navigator
Logic	Ask if STATE_PERMITASSIST=1, else skip
Response Order	As listed
Misc Spec	Required Response: Yes

VARIABLE	STATE_PERMITPRS
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Survey Question	How would you rate your experience with the ANR Permit Specialist/Project Review Sheet? <ol style="list-style-type: none"> 1. Extremely helpful 2. Very helpful 3. Moderately helpful 4. Slightly helpful 5. Not at all helpful 6. I don't know
Universe	If R obtained other state permits; AND If R used Permit Specialist/PRS
Logic	Ask if STATE_PERMITASSIST=2, else skip
Response Order	As listed
Misc Spec	Required Response: Yes

VARIABLE	STATE_APPLICATION
Survey	
Question	How easy was it to submit your other state permit application(s)? 1. Very easy 2. Easy 3. Neutral 4. Difficult 5. Very difficult
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	As listed

VARIABLE	STATE_REQUIREMENTS
Survey	
Question	How clear were the requirements for obtaining the other state permit(s)? 1. Very clear 2. Moderately clear 3. Neutral 4. Moderately unclear 5. Very unclear
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	As listed

VARIABLE	STATE_COMPLEXITY
Survey	
Question	How would you rate the complexity of the other state permitting processes overall? 1. Very simple 2. Moderately simple 3. Neutral 4. Moderately complex 5. Very complex
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	As listed

VARIABLE	STATE_SUGGESTIONS
Survey	
Question	What suggestions do you have to improve the other state permitting processes?
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	STATE_CHALLENGE
Survey	
Question	What was the most frustrating or challenging part of the other state permitting processes?
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	STATE_OTHER
Survey	
Question	Is there anything else you'd like us to know about your experience with the other state permitting processes?
Universe	If R obtained other state permits
Logic	Ask if STATE_PERMIT=1, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

Survey Section: 04 Local Permits and Regulations

“This section asks about your recent experience with non-Act 250, non-state permits. If you wish to remain anonymous, please do not include any personal or project-specific information in your responses.”

VARIABLE	LOCAL_PERMIT
Survey Question	Did you need to obtain any local permits or approvals for the project associated with your most recent Act 250 permit or application? 1. Yes 2. No 3. I don't know
Response Order	As listed
Misc Spec	Explanatory Text: Examples of local permits or approvals include zoning, development review, building, etc.

VARIABLE	LOCAL_WORKCHANGE
Survey Question	In the past 12 months, how would you rate the amount of work you have done to comply with local permits or approvals? 1. Increased from previous years 2. Decreased from previous years 3. Stayed the same 4. I don't know
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response Order	As listed
Misc Spec	Required Response: Yes

VARIABLE	LOCAL_CHANGEREASON
Survey Question	You have indicated that the amount of work you have done has increased or decreased from previous years. What would you say is the main reason for this change?
Universe	If R obtained local permits; AND If R has increased level of work to comply with local regs; OR If R has decreased level of work to comply with local regs
Logic	Ask if LOCAL_WORKCHANGE=1 or 2, else skip
Response Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	LOCAL_SATISFACTION
Survey Question	When you think about your most recent interaction with the local permitting or approval process, how would you rate your experience in general? 1. Very satisfied 2. Somewhat satisfied 3. Neither satisfied nor dissatisfied 4. Somewhat dissatisfied 5. Very dissatisfied

Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response order	As listed

VARIABLE	LOCAL_INFLUENCE
Survey Question	What factor has most influenced your experience with the local permitting or approval process?
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response order	No response options
Misc Spec	Response Type: Text Entry

VARIABLE	LOCAL_CONSULTANT
Survey Question	Did you hire an outside consultant or advisor to assist you with the local permitting or approval process? 1. Yes 2. No 3. I don't know
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response Order	As listed

VARIABLE	LOCAL_APPLICATION
Survey Question	How easy was it to submit your local permit or approval application? 1. Very easy 2. Easy 3. Neutral 4. Difficult 5. Very difficult
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response Order	As listed

VARIABLE	LOCAL_REQUIREMENTS
Survey Question	How clear were the requirements for obtaining the local permit or approval? 1. Very clear 2. Moderately clear 3. Neutral 4. Moderately unclear 5. Very unclear
Universe	If R obtained local permits

Logic	Ask if LOCAL_PERMIT=1, else skip
Response	
Order	As listed

VARIABLE	LOCAL_COMPLEXITY
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Survey	
Question	How would you rate the complexity of the local permitting or approval process overall? 1. Very simple 2. Moderately simple 3. Neutral 4. Moderately complex 5. Very complex
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response	
Order	As listed

VARIABLE	LOCAL_SUGGESTIONS
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Survey	
Question	What suggestions do you have to improve the local permitting or approval process?
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	LOCAL_CHALLENGE
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Survey	
Question	What was the most frustrating or challenging part of the local permitting or approval process?
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

VARIABLE	LOCAL_OTHER
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Survey	
Question	Is there anything else you'd like us to know about your experience with the local permitting or approval process?
Universe	If R obtained local permits
Logic	Ask if LOCAL_PERMIT=1, else skip
Response	
Order	No response options
Misc Spec	Response type: Text Entry

File Review of Identified Wood Products Manufacturers Act 250 Permits

	± 21.3 Years 1/1/2004 to 4/10/2025 (A + B)	± 14.5 Years 1/1/2004 to 7/1/2018 A	± 6.7 Years 7/1/2018 to 4/10/2025 B
Total Number of Act 250 Applications	71	57	14
Applications Per Year	3.3	3.9	2.1
Abandoned / Dismissed / Withdrawn	4 (6%)	3 (5%)	1 (7%)
Denials	0	0	0
Total Permits Issued	68	54	14
Major	10 (15%)	7 (13%)	3 (21%)
Minor to Major	7 (10%)	5 (9%)	2 (14%)
Minor (no hearing)	40 (59%)	31 (57%)	9 (64%)
Administrative Amendments	11 (16%)	11 (20%)	0
With one or more other state permits	28 (41%)	19 (35%)	9 (64%)
With formal participation from other State Agency	29 (43%)	17 (31%)	12 (86%)
Neighbor participation	15 (22%)	11 (20%)	4 (29%)
Operating hours in permit	19 (28%)	12 (22%)	7 (50%)
Neighbor participation AND Operating hours in permit	11 (16%)	8 (14%)	3 (21%)
Formal Coordinator “incomplete” letter (e)	10 (15%)	6 (11%)	4 (29%)
Average time to issue AA or Notice (from date of receipt of first item) (d)	26 days	24 days	32 days
Average time to issue Permit (from date of receipt of first item) (d)	113 days	99 days	130 days (a)
Commission waiting to receive other State Agency permit(s) with Average Days (Close of Comment or HRO to Commission Date of Receipt)	9 (13%)	3 (6%)	6 (43%) 99 days (b)
Coordinated State Agency review (ie ANR filed comments for AOT)	2 (3%)	2 (4%)	0
Average Act 250 application fee, adjusted for inflation (CPI)			\$11,088 \$2,142 (c)

(a) 12 to 742 days (5L0999-11, Clifton Kesterson, Hyde Park). 173 days with 5L0999-11

(b) 29 to 673 days (5L0999-11). 195 days with 5L0999-11

Specific Permits awaiting receipt:

ANR Air (total 2), ANR MSGP (total 3), ANR Stormwater Discharge (total 2), ANR CGP Stormwater (1)

(c) \$62.50 to \$120,984 (7C1412, Fahim Samaha Capergy US LLC, Ryegate) \$2,142 without 7C1412. Numbers in table were adjusted for inflation with CPI inflation calculator, U.S. Bureau of Labor Statics

(d) Days reported includes the time for Applicant to file supplemental information to complete the application, when applicable

(e) Increase in formal letters aligns with transition to standardized use of formal letters (versus emails and other less formal forms of communication)

Act 250 Permit Data – All Categories - 5 Years

Application Decisions Issued per Year

Application type	CY 2020	CY 2021	CY 2022	CY 2023	CY 2024
Major (hearing required)	14	14	21	15	11
Minor-to-Major (hearing required)	n/r	n/r	n/r	7	6
Minor (no hearing)	185	248	210	224	239
Administrative amendments	139	180	148	146	107
TOTALS	338	442	379	392	363

Source: Land Use Review Board / Act 250 Annual Report, Calendar Year 2024

Five Year Totals

Application type	5 Year Total	5 Year Average
Major, Minor to Major	88	18 (5%)
Minor (no hearing)	1106	221 (58%)
Administrative amendments	720	144 (38%)
TOTALS	1914	383

Current (4/14/25) Status of Towns (1 Acre, 10 Acre)

A. Where Act 250 WPM Projects are Located, for the Identified WPM Act 250 Project Files Reviewed ± 21.3 Years

B. Statewide

	WPM Act 250 Project Town ± 21.3 Years A	Statewide * B
1 Acre Town (does not have both Zoning & Subdivision)	59% (29)	46% (122)
10 Acre Town (has both Zoning & Subdivision)	41% (20)	54% (142)
TOTALS	49	264

*Source: LURB Website 4-14-25: <https://act250.vermont.gov/sites/acttwofifty/files/documents/1-and-10-Acre-Municipality-List-Act-20250.pdf>

Excerpts from Act 250 Application Form and Guide, Criterion 1

CRITERION 1 – AIR POLLUTION

Every project should be designed to minimize air pollutants to levels that will not threaten public health or create an unreasonable nuisance for nearby residents. Some areas of concern include:

- industrial/manufacturing emissions, such as paint fumes, sawdust, chemical vapors, and fly ash;
- vehicle exhaust at congested intersections;
- excessive dust or smoke during construction or operation;
- odors;
- processing or storage of radioactive materials; and
- **noise** during construction or operations, to the extent that it may have an adverse effect on health.

The precise standards for these various air pollutants may vary from case to case, and applicants should contact the Coordinator or the [ANR Air Quality and Climate Division](#) if they are not certain what acceptable standards might be. If the project will generate significant or prolonged noise, applicants should consider submitting a noise study prepared by a qualified noise consultant. In addition, all necessary air pollution permits must be obtained. These permits can be used to create rebuttable presumptions of compliance under [Act 250 Rule 19](#).

Some levels of air pollutants such as noise and dust may not have the potential to cause health hazards but may be a significant nuisance for neighbors. Applicants are encouraged to try to reduce these nuisances and to communicate with area residents in advance of application submission. Air pollutants, including the nuisance impacts of noise, may also be considered under Criterion 8 (Aesthetics).

b. Describe any process emissions, dust, smoke, odors or sources of noise will result from the project, and what measures are proposed for control? Will there be any burning of forest or construction debris? Any fire pits?

*

d. What restrictions will there be for hours of construction and/or operations and how will noise be controlled, especially in residential areas?

*

⚠ Please respond to this question. If not applicable, explain why rather than entering "N/A."

*Source: LURB Website 4-14-25

https://act250.vermont.gov/sites/acttwofifty/files/documents/Act250_ApplicationGuide.pdf

Act 250 landing page at anrOnline, <https://anronline.vermont.gov/Home/10e7de62-a05e-43d4-b1d7-0e713cf52e03> Form Act 250 Application for Land Use Permit

The following chart outlines some results from all categories of all projects that went through Act 250 permitting in 2024.

All Permits, Calendar Year 2024

Total acres of Primary Agricultural Soils protected onsite by permit conditions	16.1 acres
Total Primary Agricultural Soil Mitigation Payments assessed	\$576,344
Total Traffic Mitigation Payments assessed	over \$245,979
Archeological sites addressed	12 permits
Historic structures addressed	10 permits
Wetlands and wetland buffers protected	91 permits
Riparian zones (river and stream buffers) protected	99 permits
Lake, pond, or large river buffers protected	1 permit
Protection of drinking water Source Protection Areas addressed	33 permits
Habitat areas addressed	53 permits
Noise limitation conditions	189 permits
Quarry or gravel pit reclamation conditions	11 permits

Source: Land Use Review Board / Act 250 Annual Report, Calendar Year 2024

The following chart outlines some results from the WPM projects that went through Act 250 permitting for the date range indicated.

WPM - 13 Permits 7/1/2018 to 4/15/2025

Total acres of Primary Agricultural Soils protected onsite by permit conditions	6.3 acres
Total Primary Agricultural Soil Mitigation Payments assessed	\$19,007 (with new 1:1 ratio)
Total Traffic Mitigation Payments assessed	None
Archeological site evaluations	2 permits
Historic structures / sites addressed	2 permits
Wetlands and wetland buffers protected	6 permits
Riparian zones (river and stream buffers) protected	8 permits
Lake, pond, or large river buffers protected	2 permits
Protection of drinking water Source Protection Areas addressed	None
Habitat areas addressed	1 permit
Noise limitation conditions (i.e. operating hours)	7 permits
Quarry or gravel pit reclamation conditions	NA

FILE REVIEW OF WOOD PRODUCT MANUFACTURER ACT 250 RECORDS

APPLICATIONS

	2003-2023	2003-2017	2018-2023
Total	72	59	13
Per year	3.60	3.93	2.60
Major	10 (14%)	8 (14%)	2 (15%)
Minor to Major	9 (13%)	7 (12%)	2 (15%)
Minor	38 (53%)	30 (51%)	8 (62%)
Administrative Amendments	15 (21%)	14 (24%)	1 (8%)
Abandoned / Dismissed / Withdrawn	4 (6%)	3 (5%)	1 (8%)
Denials	—	—	—
Other state permits	21 (29%)	13 (22%)	8 (62%)
State agency comments	13 (18%)	10 (17%)	3 (23%)
Incomplete letter / request for additional info	11 (15%)	6 (10%)	5 (38%)
Adjoining landowner with party status	13 (18%)	10 (17%)	3 (23%)

PROCESSING TIMES (from date of complete application, unless otherwise noted)

	2003-2023	2003-2017	2018-2023
Average time to issue incomplete letter (from date application is received)	15 days ± 3	10 days ± 2	20 days ± 6
Average time to issue notice	27 days ± 12	14 days ± 2	18 days ± 5
Average time to issue major permit	212 days ± 78	221 days ± 105	185 days ± 61
Average time to issue minor permit	83 days ± 21	60 days ± 14	169 days ± 81
Average time to issue minor-to-major permit	241 days ± 57	243 days ± 80	141 days ± 6
Average time to issue administrative amend.	8 days ± 3	8 days ± 3	— —

ISSUED PERMITS

	2003-2023	2003-2017	2018-2023
Total	68	56	12
Per year	3.40	3.73	2.40
Major	7 (10%)	6 (11%)	1 (8%)
Minor to Major	8 (12%)	6 (11%)	2 (17%)
Minor	38 (56%)	30 (54%)	8 (67%)
Administrative Amendments	15 (22%)	14 (25%)	1 (8%)

PERMIT FEES (in 2023 US Dollars)

	2003-2023	2003-2017	2018-2023
Average	\$1,912.19 ± 414.69	\$1,875.58 ± 451.21	\$2,058.64 ± 1,067.11
Highest	\$11,871.04	\$11,871.04	\$11,766.00
Lowest	\$66.00	\$66.00	\$71.25

PERMIT CONDITIONS

	2003-2023	2003-2017	2018-2023
Primary agricultural soils mitigated on-site	10.58 acres	4.28 acres	6.3 acres
Primary agricultural soils on-site mitigation	2 (3%)	1 (2%)	1 (8%)
Archaeological sites	2 (3%)	1 (2%)	1 (8%)
Historic sites	2 (3%)	1 (2%)	1 (8%)
Wetland buffers	8 (12%)	5 (9%)	3 (23%)
Riparian buffers	16 (24%)	9 (16%)	7 (54%)
Deer wintering yards	1 (1%)	0 (0%)	1 (8%)
Noise volume	6 (9%)	5 (9%)	1 (8%)
Hours of operations	16 (24%)	11 (20%)	5 (38%)
Other aesthetics	9 (13%)	8 (14%)	1 (8%)
Floodways	2 (3%)	0 (0%)	2 (15%)

APPLICATIONS

Total	2003-2017	2018-2023	Per Year	2003-2017	2018-2023
Sawmills	34	6	Sawmills	2.27	1.2 ↓
Firewood	11	4	Firewood	0.73	0.8 ↑
Chips & Pellets	5	1	Chips & Pellets	0.33	0.2 ↓
Other Wood Products	5	2	Other Wood Products	0.33	0.4 ↑
Yards	2	0	Yards	0.13	0 ↓
Major			Major		
Sawmills	3	0	Sawmills	0.20	0.00 ↓
Firewood	3	2	Firewood	0.20	0.40 ↑
Chips & Pellets	2	0	Chips & Pellets	0.13	0.00 ↓
Other Wood Products	0	0	Other Wood Products	0.00	0.00 —
Yards	0	0	Yards	0.00	0.00 —
Minor to Major			Minor to Major		
Sawmills	3	0	Sawmills	0.20	0.00 ↓
Firewood	3	1	Firewood	0.20	0.20 —
Chips & Pellets	1	0	Chips & Pellets	0.07	0.00 ↓
Other Wood Products	0	1	Other Wood Products	0.00	0.20 ↑
Yards	0	0	Yards	0.00	0.00 —
Minor			Minor		
Sawmills	21	5	Sawmills	1.40	1.00 ↓
Firewood	3	1	Firewood	0.20	0.20 —
Chips & Pellets	1	1	Chips & Pellets	0.07	0.20 ↑
Other Wood Products	3	1	Other Wood Products	0.20	0.20 —
Yards	2	0	Yards	0.13	0.00 ↓
Administrative Amend.			Administrative Amend.		
Sawmills	7	1	Sawmills	0.47	0.20 ↓
Firewood	2	0	Firewood	0.13	0.00 ↓
Chips & Pellets	1	0	Chips & Pellets	0.07	0.00 ↓
Other Wood Products	2	0	Other Wood Products	0.13	0.00 ↓
Yards	0	0	Yards	0.00	0.00 —

METHODOLOGY



- 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.**
- Past reports, surveys, and stakeholder engagement
 - 2024 – Vermont Forest Future Strategic Roadmap
 - 2023 – Necessary Updates to Act 250
 - 2019 – Report of the Commission on Act 250: The Next 50 Years
 - 2015 – Vermont Forest Fragmentation Report
 - 2017 – Act 171 Forest Integrity Study Committee Report
 - 2011 – Report on Improving Vermont’s Environmental Protection Process
 - Explore general perceptions
 - Broad survey
 - Understand the permitting experience
 - In-depth review of wood products manufacturer permit files
- 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.**

Permits Currently Listed in Act 250 Rule 19		Other State Agency Permits
• Criterion 1: Air and water pollution		
○ 1(A): Headwaters ○ 1(B): Waste disposal ○ 1(C): Water conservation ○ 1(D): Flood hazard areas; river corridors ○ 1(E): Streams ○ 1(F): Shorelines ○ 1(G): Wetlands	Wastewater System and Potable Water Supply (WW) Permit Discharge Permit (General or Individual eg Stormwater) Certification of Compliance Sewer Line Extension Permit Underground Injection Control (UIC) Permit Solid Waste or Hazardous Waste Certification Wetland CUD or General Permit Air Pollution Control Permit Underground Storage Tank (UST)	Stream Alteration Permit Shoreland Permit Individual Wetland Permit Multi Sector General Permit (MSGP) FHARC Permit (General, Individual) Water Quality Certification (401)
• Criterion 2: Water supply	WW Permit Public Utility Permit (PSB) Public Water System Construction or Operating Permit Municipal (local water authority)	
• Criterion 3: Impact on water supply	Application of Herbicides (AAFM)	
• Criterion 4: Erosion and capacity of soil to hold water	Construction Stormwater Permit (Individual or General)	
• Criterion 5: Transportation		AOT (§1111) Construction Permit
○ 5(A): Traffic ○ 5(B): Transportation		
• Criterion 6: Educational services	Municipal (DRB findings & conclusions)	
• Criterion 7: Municipal services	Municipal (DRB findings & conclusions)	
• Criterion 8: Ecosystem protection, scenic beauty, historic sites		
○ Visual aesthetics, odor, and noise ○ Historic Sites - structures, districts, or landscapes ○ Historic Sites - archeology ○ Rare and irreplaceable natural areas ○ 8(A): Scenic beauty, historic sites, and RINAs ○ 8(B): Necessary wildlife habitat and endangered species ○ 8(C): Forest blocks and habitat connectors (12/31/2026)		
• Criterion 9: Capability and Development: Land Use		
○ 9(A): Impact of growth ○ 9(B): Primary agricultural soils ○ 9(C): Productive forest soils ○ 9(D): Earth resources ○ 9(E): Extraction of earth resources ○ 9(F): Energy conservation ○ 9(G): Private utility services ○ 9(H): Costs of scattered development ○ 9(J): Public utility services ○ 9(K): Public investments ○ 9(L): Settlement patterns		
• Criterion 10: Local and regional plans	Municipal (DRB findings & conclusions, re Local plan)	

6. *Stonybrook*

In May 2001, the Environmental Board issued a decision in the matter of *Re: Stonybrook Condominium Owners Association*, Declaratory Ruling #385, Findings of Fact, Conclusions of Law, and Order (May 18, 2001) (*Stonybrook*). In this decision, the Board stated, for the first time, that a project may encompass less than the entirety of the parcel on which it sits.

Stonybrook has been the subject of much discussion over the past five years. The Land Use Panel's September 26, 2006 decision not to move forward with a *Stonybrook* rule does not change the fact that the decision survives today as Environmental Board precedent.

What *Stonybrook* applies to: whether a permit amendment is required

The issue in *Stonybrook* was whether a permit amendment was required for the proposed demolition of a farmhouse on a permitted housing development. This involved an analysis of whether the farmhouse was a part of the project that was the subject of the Land Use Permit – the “permitted project,” as the term appears in former Environmental Board Rule 34(A). The Board held that the “permitted project” included the entire tract of land on which the housing development was located, and that demolition of the farmhouse therefore required a permit amendment. *Stonybrook* at 20.

The most significant aspect of the decision, however, was the Board's statement that it “would allow a permittee to attempt to limit the boundaries of its ‘permitted project’” under certain circumstances. *Stonybrook* at 18.

Currently, a permit amendment is required for any material change to a “permitted development or subdivision.” Act 250 Rule 34(A):

An amendment shall be required for any material change *to a permitted development or subdivision*, or any administrative change in the terms and conditions of a land use permit.

(Emphasis added). A material change is one “which has a significant impact on any finding, conclusion, term or condition of the project's permit and which may result in an impact with respect to any of the criteria” of Act 250. Act 250 Rule 2(C)(6).

If the scope of the permitted project is reduced to an area which is smaller than the tract on which it is located, activities or changes on the tract that are not within the scope of the permitted project will not require a permit amendment, even if they would otherwise have constituted a material change. See, *Re: Alpine Stone Corp.*, #2S1103-EB, Findings of Fact, Conclusions of Law, and Order at 43 (Feb. 4, 2002) (noting that “If the Commission were to limit the scope of the permitted project as Permittees propose, the requirements of EBR 34 would apply only to the 21.6-acre parcel”).

Rule 34(A) now refers to a “permitted development or subdivision” instead of a “permitted project.” Although the *Stonybrook* case concerned a development and not a

subdivision, the decision seems to indicate that subdivisions would not qualify for “permitted project” reduction. See, *Stonybrook*, Findings of Fact, Conclusions of Law, and Order at 17: “In some instances, such as subdivisions, a ‘permitted project’ will encompass the entire tract of land on which it sits.”

Before *Stonybrook*

Before the *Stonybrook* decision, the “permitted project” was considered - because the question had never been raised - to be the entirety of the tract or tracts on which the project occurred. Thus, the metes and bounds of the project tract (as described in the deed referenced in the permit) defined the “permitted project” for Rule 34(A) purposes. This “bright line” test was easy to apply and to administer. In *Stonybrook*, the Board adopted this bright line test as the default definition or general rule for the scope of the permitted project, but it went on to state that the permitted project could be limited under certain circumstances. *Stonybrook* at 18.

After *Stonybrook*

In *Stonybrook* the Board said that the boundaries of the “permitted project” (now “permitted development or subdivision”) could be modified, in limited instances, to be an area smaller than the entire tract. Future construction within that area would be subject to Rule 34(A)’s requirement that an amended permit be obtained for any material change. However, construction *outside of the boundaries* of the “permitted project” would not require a permit amendment.¹ *Stonybrook* at 18. The Board wrote:

In most cases, such as subdivisions, a “permitted project” will encompass the entire tract of land on which it sits. However, the Board is cognizant that a definition of “permitted project” that does not allow for flexibility in appropriate situations is neither wise nor fair. Were a small project on a large tract to require, without exception, that the entire tract be included within the definition of “permitted project,” inequitable or absurd results could follow. For example, were a farmer to allow the installation of a telecommunications antenna on one of his silos, should this mean that his entire farm must be considered to be the “permitted project”? Clearly, under this scenario, were the permittee able to establish that its construction has no, or only limited, impacts beyond those caused by the actual construction itself, the definition of “permitted project” should be tempered by reason and reality.

¹ Of course, if such construction would independently trigger Act 250 jurisdiction because it is itself a “development” or “subdivision,” 10 V.S.A. §§6001(3) and (19), a Land Use Permit would be required.

Stonybrook at 17 – 18. The Board’s decision, however, made it clear that shrinking the “permitted project” to less than the tract might not be an easy task:

Thus, while the Board adopts the "bright line" definition of "permitted project" as stated in §IV(B)(3) above as the default definition or the general rule , the Board will also allow a permittee to attempt to limit the boundaries of its "permitted project" in the manner described in §IV(B)(2), above. ***The Board recognizes that delineating such boundaries will require a careful evaluation . . . of the natural resources on the project tract and of the actual impacts or effects created by the project on those resources.*** It may also require the permittee to present . . . ***a survey and other evidence which accurately establish the extent of such impacts or effects.*** . . . [I]n many instances ***it will be neither an easy nor inexpensive task to define a project's nexus areas,*** and the Board can foresee that a permittee's attempt to limit the area of its "permitted project" may be subject to challenge by others and form the basis for appeals to the Board which might not otherwise be taken. Nonetheless, should a permittee choose to follow this route, ***recognizing that it must bear the burden of proving the extent of its project and its impacts,*** the Board concludes that there may be instances in which restricting the scope of the "permitted project" to something less than the entire tract will result in a fair and reasonable approach to this issue.

Stonybrook at 18 (emphasis added; footnote omitted). The Board also noted that a request to limit the permitted project would “likely preclude the District Commission from treating the application as a ‘minor’ application” under Rule 51. *Id.*, n.10.

After *Stonybrook*, the Environmental Board ruled that the District Commission, not the District Coordinator, should rule on applications to reduce the scope of the permitted project. *Re: Alpine Stone Corp.*, #2S1103-EB, Findings of Fact, Conclusions of Law, and Order at 43 (Feb. 4, 2002)(noting that *Stonybrook* requires full evaluation of the nature and extent of the project’s impacts, which is the type of review district commissions conduct).

In another subsequent decision, the Board denied a request to eliminate a residential lot from the permitted sawmill and retail building products project on the grounds that lights and sounds from the permitted project went onto and were buffered by the residential property. *Re: Bethel Mills*, #3W0898 (Altered)-EB, Findings of Fact, Conclusions of Law, and Order at 15-16 (Aug. 4, 2005). The Board noted that “[r]eduction of the scope of permitted projects is only appropriate in exceptional

circumstances, where a requesting party is able to prove that the extent of the project's impacts is limited." *Bethel Mills* at 15. The Board held that the exceptional circumstances did not exist in that case.

There is no Environmental Board decision to serve as an example of how *Stonybrook* relief has been granted. To date, the Environmental Court has not granted a *Stonybrook* request or otherwise issued a ruling based on this concept of reducing the scope of the permitted project.

When a *Stonybrook* motion may be filed

Although the *Stonybrook* decision addressed the issue of "permitted project" reduction within the context of an amended permit application, there is no sound reason to prohibit an applicant for a project from seeking such a reduction within the context of an original application. Allowing an applicant to seek a reduction at the initial stage will, before any construction occurs, inform the applicant as to the scope of the permitted project and will allow neighbors to the project the opportunity to comment on the project's scope. Of course, because it may be difficult or impossible to evaluate the extent of a project's impacts before any construction or activities occur, a Commission may choose to defer ruling on a *Stonybrook* motion until a later time.

Related Legislation and Rules

Legislation

The Vermont legislature has enacted its own "Stonybrook"-type legislation. First, a statutory provision added in 2004 restricts jurisdiction and permit conditions on lands that are being farmed:

When development is proposed to occur on a parcel or tract of land that is devoted to farming activity as defined in subdivision 6001(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 which do not support the development and that restrict or conflict with accepted agricultural practices adopted by the secretary of agriculture, food and markets

10 V.S.A. §6001(E).

A similar provision exists for communications towers:

In addition to other applicable law, any support structure proposed for construction, which is primarily for communication or broadcast purposes

and which will extend vertically 20 feet, or more, in order to transmit or receive communication signals for commercial, industrial, municipal, county or state purposes, shall be a development under this chapter, independent of the acreage involved. If jurisdiction is triggered for such a support structure, then jurisdiction will also extend to the construction of improvements ancillary to the support structure, including buildings, broadcast or communication equipment, foundation pads, cables, wires, antennas or hardware, and all means of ingress and egress to the support structure. To the extent that future improvements are not ancillary to the support structure and do not involve an additional support structure, those improvements shall not be considered a development, unless they would be considered a development under this chapter in the absence of this section. The criteria and procedures for obtaining a permit under this section shall be the same as for any other development.

10 V.S.A. §6001c (1997).

Rule

The Land Use Panel considered a draft proposed rule that would codify the *Stonybrook* decision. However, on September 26, 2006, the Panel tabled action on the draft rule after hearing arguments against its adoption from the district coordinators, reserving the right to go forward with the rule at a later date. The Panel's action was not intended to change the existing case law on *Stonybrook*.

The decision and subsequent related decisions remain in place today for appropriate situations, and Commissions may apply this Environmental Board case law as warranted.

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**STATE OF VERMONT
NATURAL RESOURCES BOARD**

**ACT 250 RULES
Effective: December 4, 2015¹**

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¹ On May 31, 2016 Act 150 was signed into law which, by operation of law, repealed Act 250 Rule 3(C). See Act 250 Rule 3 for details.

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Commission to request a joint hearing with another affected governmental agency. —
Adopted April 7, 2006, eff. May 1, 2006.

Rule 16 Prehearing Conferences and Preliminary Rulings

(A) *Prehearing Conferences.* Upon request of an applicant or upon its own motion, a District Commission, acting through a duly authorized delegate, may conduct such prehearing conferences, upon due notice, as the commission determines will be useful in providing full information to all parties and in expediting its proceedings. Such prehearing conferences may include the following:

(1) Determine preliminary party status in accordance with Rule 14(E) and 10 V.S.A. § 6085(c)(6);

(2) Clarify the issues in controversy and set a schedule for future proceedings;

(3) Identify evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing by any party;

(4) Promote expeditious, informal and nonadversarial resolution of issues, require the timely exchange of information concerning the application, and encourage participants to settle differences; and

(5) Conduct such other business that the District Commission deems necessary and appropriate.

(B) *Preliminary rulings.* The convening officer, if a member of the District Commission, may make such preliminary rulings as to matters of notice, scheduling, party status, and other procedural matters, including interpretation of these rules, as are necessary to expedite and facilitate the hearing process. Such rulings may also be made by a commission chair without the convening of a prehearing conference. However, any such ruling may be objected to by any interested party, in which case the ruling shall be reviewed and the matter resolved by the District Commission.

(C) *Prehearing order.* The convening officer may prepare a prehearing order stating the results of the prehearing conference. Any such order shall be binding upon all parties to the proceeding who have received notice of the prehearing conference if it is forwarded to the parties at least five days prior to the hearing. However, the time requirement may be waived upon agreement of all parties to the proceeding; and the District Commission may waive a requirement of a prehearing order upon a showing of cause, filing a timely objection, or if fairness so requires.

(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. See 10 V.S.A. § 6085(e). —Adopted April 7, 2006, eff. May 1, 2006.

Rule 17 Evidence in Contested Case Proceedings

(A) *Admissibility.* The Administrative Procedure Act, 3 V.S.A. § 810 shall govern the admissibility of evidence..

(B) *Documents submitted for the record.* Permit applications, permits, approvals, certifications, and related documents accompanying applications submitted by a party shall be entered into the record when they are accepted for filing.

(C) *Order of evidence.* The District Commission or Board shall receive evidence and testimony on any of the criteria or issue in the order as appears most expeditious and equitable. Upon conclusion of an offer of proof on an issue, unless otherwise directed by the District Commission or Board, all other parties shall at that time present whatever evidence and testimony they intend to offer on the criterion before proceeding to another criterion. An applicant or a party may, however, request a partial review under the criteria in a particular sequence pursuant to Rule 21.

(D) *Prefiled testimony.* Any party may elect to submit testimony in writing. Such testimony must be clearly organized with respect to the criteria of the Act and any other issues which are addressed, and must contain a table of contents identifying the criteria and issues addressed.

(1) *Notice and distribution.* A party intending to use prefiled testimony must notify the commission or Board and all other parties of the issues to be addressed and the witnesses to be used at least 14 days prior to the hearing at which this testimony will be offered. At least 7 days prior to the hearing, the offering party must submit a copy of the testimony to each party of record and file it with the district coordinator or Board. These time requirements may be waived by the District Commission or Board upon a showing of good cause.

(2) *Hearing procedure.* Prefiled testimony is intended only to facilitate presentation of a witness's direct testimony. The witness must be present at the hearing to present his direct testimony in writing and to affirm its truthfulness. Objections to the admissibility of the testimony will be heard when it is offered unless an earlier deadline for objections has been established by the District Commission or Board. The witness must remain available for cross-examination. If the parties have received copies of the testimony in accordance with this Rule, the District Commission or Board may require that cross-examination proceed immediately.

Rule 19 Compliance with Other Laws – Presumptions

(A) *Alternative procedures.* In the event that a subdivision or development requires one or more permits, approvals or certifications from, another state agency, the applicant may elect to follow any one or any combination of the following procedures:

(1) Obtain other permits, approvals or certifications before filing the Act 250 application (See (B) below); or

(2) File the Act 250 application prior to, or together with other applications, but with an intention to use other permits, approvals or certifications to establish presumptions of compliance with substantive criteria of the Act (See (C) below); or

(3) With the approval of the District Commission, an Act 250 application may be filed first, with an intention to satisfy certain substantive criteria of the Act with independent evidence of compliance (See (D) below). In addition, an applicant may file an application for partial findings under the appropriate criteria in accordance with Rule 21.

(B) *Permits accompanying application.* If the applicant obtains applicable permits, approvals or certifications listed in section (E) of this rule prior to filing an Act 250 application, he or she shall attach copies of such permits, approvals or certifications to the application. Such permits, approvals and certifications, when entered in the record pursuant to Rule 17(B), will create presumptions of compliance with the applicable criteria of the Act in the manner set out in section (F) of this rule.

(C) *Permits obtained after application.* If an applicant states an intention to use applicable permits, approvals or certifications not yet issued to raise presumptions under this rule, the District Commission may, at its discretion, defer issuing a land use permit until the necessary permits, approvals or certifications are issued, and may recess the hearing until they are submitted by the applicant. The applicant must submit copies of each permit, approval or certification relied upon to the District Commission, and shall serve all parties in accordance with these rules. The District Commission will, within five days, provide each party with party status under the relevant criteria notice of the party's right to request a reconvened hearing.

The District Commission may reconvene the hearing on its own motion, or upon the request of a party intending to rebut the presumption or claiming that there has been a substantial change in circumstances pertaining to the application. Unless otherwise ordered by the District Commission, any request by a party to reconvene must be filed within 10 days of the date of mailing of the permit, approval or certification and notice. If no such request is received, the hearing will be considered closed on the relevant criteria. If a request is received and the hearing is reconvened, evidence will be taken in the manner set out in section (F) of this rule.

(D) *No reliance on permits.* With District Commission approval, an applicant may seek to satisfy the burden of proof under applicable criteria of the Act without submitting

permits, approvals or certifications from other state agencies by offering affirmative evidence through testimony, exhibits and other relevant material upon which the District Commission can make findings of fact and conclusions of law. However, if any of the permits, approvals or certifications identified in section (E) of this rule must be obtained prior to construction or use of the project, or portion thereof, the District Commission may, on its own motion or on motion by a party, defer taking evidence until the necessary permits, approvals or certifications are issued and may recess the hearing until they are submitted by the applicant. If action is deferred, the provisions of section (C) of this rule shall apply.

(E) *Permits creating presumptions.* In the event a subdivision or development is also subject to standards of or requires one or more permits, approvals or certifications from another state agency, such permits, approvals or certifications of compliance, when entered in the record pursuant to Rule 17(B), will create the following presumptions:

(1) *That waste materials and wastewater can be disposed of through installation of wastewater and waste collection, treatment and disposal systems without resulting in undue water pollution:*

(a) A wastewater system and potable water supply permit - Agency of Natural Resources under 10 V.S.A. Ch. 64 and rules adopted thereunder. (Note: Permits, approvals, or certifications issued by the Agency of Natural Resources for potable water supplies and wastewater systems prior to June 14, 2002 are deemed to be permits, approvals, or certifications issued under 10 V.S.A. Ch. 64 pursuant to § 15(c) of Act 133 of the 2002 Legislative Session.)

(b) An individual discharge permit; an approval for coverage under a general discharge permit; or a discharge permit for a wastewater treatment facility owned or controlled by the applicant and to be used by the project issued by the Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder.

(c) A certification of compliance that the project's use of a sewage treatment facility not owned or controlled by the applicant complies with the permit issued for that facility by the Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder.

(d) A sewer lines extension permit - Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder.

(e) An underground injection permit for the discharge of non-sanitary waste into an injection well - Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder.

(f) A solid waste or hazardous waste certification - Agency of Natural Resources, under 10 V.S.A. Chapter 159 and rules adopted thereunder.

(g) An underground storage tank permit with regard solely to the substance to be stored in the underground storage tank - Agency of Natural Resources under 10 V.S.A. Chapter 59 and rules adopted thereunder.

(2) *That no undue air pollution will result:*

(a) Air Pollution Control Permit - Agency of Natural Resources, under 10 V.S.A. § 556 and rules adopted thereunder.

(3) *That a sufficient supply of potable water is available:*

(a) A wastewater system and potable water supply permit - Agency of Natural Resources under 10 V.S.A. Ch. 64 and rules adopted thereunder. (Note: Permits, approvals, or certifications issued by the Agency of Natural Resources for potable water supplies and wastewater systems prior to June 14, 2002 are deemed to be permits, approvals, or certifications issued under 10 V.S.A. Ch. 64 pursuant to §15(c) of Act 133 of the 2002 Legislative Session.)

(b) Public utility permit - Public Service Board under 30 V.S.A. §§ 203 and 219.

(c) Municipal permit - Local water authority.

(d) A public water system construction permit - Agency of Natural Resources, under 10 V.S.A. Chapters 48, 56, and 61; 18 V.S.A. § 1218, and rules adopted thereunder.

(e) A public water system operating permit - Agency of Natural Resources, under 10 V.S.A. Chapters 48, 56, and 61; 18 V.S.A. § 1218, and rules adopted thereunder.

(4) *That the application of pesticides will not result in undue water or air pollution and will not cause an unreasonable burden on an existing water supply:*

(a) Permit for the application of herbicides to maintain and clear rights-of-way - Department of Agriculture, under 6 V.S.A. Chapter 87 and rules adopted thereunder.

(5) *That the development or subdivision will not violate the rules of the agency of natural resources relating to significant wetlands:*

(a) A conditional use determination, permit, or approval under a general permit with respect to activities in a Class I or Class II wetland or its associated buffer zone, issued by the Agency of Natural Resources under 10 V.S.A. Ch. 37, and rules adopted thereunder.

(6) *That stormwater runoff during construction will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water.*

(a) An individual construction discharge permit, or an approval for coverage by a general permit for stormwater runoff from construction sites, issued by the Agency of Natural Resources, under 10 V.S.A. Chapter 47 and rules adopted thereunder.

(F) *Effect of presumptions.* A permit, approval or certification filed under this rule shall create a rebuttable presumption that the portion of the development or subdivision subject to the permit, approval or certification is not detrimental to the public health and welfare with respect to the criteria specified in these rules. However, the District Commission may on its own motion question the applicant, the issuing agency, or other witnesses concerning the permit, approval or certification, and any party may challenge the presumption. If a party challenges the presumption, it shall state the reasons therefor and offer evidence at a hearing to support its challenge. Upon the rebuttal of the presumption, the applicant shall have the burden of proof under the relevant criteria and the permit, approval or certification shall serve only as evidence of compliance.

(1) In the case of permits, approvals or certifications issued by the Agency of Natural Resources, technical determinations of the Agency shall be accorded substantial deference by the District Commission.

(2) In the case of presumptions provided in Rule 19(E), if the District Commission concludes, following the completion of its own inquiry or the presentation of the challenging party's witnesses and exhibits, that undue water pollution, undue air pollution, inadequate water supply, unreasonable burden on an existing water supply, or violation of the rules of the agency of natural resources relating to significant wetlands is likely to result, then the District Commission shall rule that the presumption has been rebutted. Technical non-compliance with the applicable health, water resources and Agency of Natural Resources' rules shall be insufficient to rebut the presumption without a showing that the non-compliance will likely result in, or substantially increase the risk of, undue water pollution, undue air pollution, inadequate water supply, unreasonable burden on an existing water supply, or violation of the rules of the agency of natural resources relating to significant wetlands.

(G) *Changes requiring amendment.* In the event a permit or certification issued after the filing of an Act 250 application imposes restrictions or conditions which substantially change the character or impacts of the proposed subdivision or development, the applicant shall amend the application to reflect such changes with due notice to all parties. The District Commission may, on its own motion or on motion of any party, reconvene a hearing to consider evidence which is relevant to such changes.

(H) *Approvals.* As used in this rule, the terms "*permit*," "*approval*," and "*certification*" shall refer to any written document issued by the appropriate state agency

attesting to a project's compliance with the regulations or statutes listed in section (E) of this rule. With respect to approvals identified in section (E)(1) of this rule, a commission may accept a "site and foundation approval" as establishing presumption if it determines that said approval is based upon an evaluation by the Agency of Natural Resources of site characteristics and a specific waste disposal system plan.

(l) *Municipal presumptions.* The District Commissions shall accept determinations issued by a development review board under the provisions of section 4420 of Title 24 with respect to municipal impacts under criteria 6, educational services; 7, municipal services; and 10, conformance with the municipal plan (10 V.S.A. § 6086(a)). These decisions must include findings of fact and conclusions of law demonstrating compliance or non-compliance with the relevant criteria of Act 250. Such determinations of a development review board, either positive or negative, under the provisions of section 4420 of Title 24, shall create a rebuttable presumption only to the extent that the impacts under the criteria are limited to the municipality issuing the decision. A development review board decision involving local Act 250 review of municipal impacts must include a notice that it constitutes a rebuttable presumption under the relevant criteria and that the presumption may be challenged in proceedings under 10 V.S.A. Chapter 151. See 10 V.S.A. § 6086(d). —Adopted April 7, 2006, eff. May 1, 2006; amended Sept. 17, 2007, eff. Oct. 3, 2007; amended September 13, 2013, eff. October 1, 2013.

HISTORY

Amendments—2013. Subsection (E)(1)(a): Substituted “wastewater system and potable water supply” for “potable water supply and wastewater system.”

Subsection (E)(3)(a): Substituted “wastewater system and potable water supply” for “potable water supply and wastewater system.”

Subsection (E)(5)(a): Added “permit, or approval under a general permit,” substituted “activities” for “uses,” substituted “I” for “One”; substituted “II” for “Two,” substituted “wetland” for “wetlands,” substituted “or its associated buffer zone” for “or their buffer zones,” added “issued by the.”

Subsection (F)(2): Updated references to the Water Resources Panel to refer to the Agency of Natural Resources, in accordance with Act 138 of 2012.

Amendments—2007. Subsection (I): Substituted “4420” for “4449” following “provisions of Section” in the first and second sentences.

Rule 20 Information Required

In considering any Act 250 application:

(A) *Supplementary information.* The District Commission may require any applicant to submit relevant supplementary data for use in resolving issues raised in a proceeding, and in determining whether or not to issue a permit. When necessary to an

Rule 34 Permit Amendments: Substantial and Material Change

(A) *Material change to a permitted development or subdivision.* A permit amendment shall be required for any material change to a permitted development or subdivision, or administrative change in the terms and conditions of a land use permit. Commencement of construction on a material change to a permitted development or subdivision without a permit amendment is prohibited. Applications for amendments shall be on forms provided the board, and shall be filed with the District Commission having jurisdiction over the project. Upon request, the district coordinator will expeditiously review a proposed change and determine whether it would constitute a material change to the project, or whether it involves administrative changes that may be subject to simplified review procedures pursuant to 10 V.S.A. § 6025(b)(1). Continuing jurisdiction over all development and subdivision permits is vested in the District Commissions.

(B) *Substantial change to a pre-existing development or subdivision.* A substantial change to a pre-existing development or subdivision shall be subject to a new application process including the notice and hearing provisions of 10 V.S.A. §§ 6083, 6083a, 6084 and 6085 and the related provisions of these rules.

(C) *Minor Applications.* The minor application process pursuant to Rule 51 may apply to any application to amend a permit or a new application filed pursuant to this rule.

(D) *Administrative amendments to a permit.*

(1) A District Commission may authorize a district coordinator to amend a permit without notice or hearing when an amendment is necessary for record-keeping purposes or to provide authorization for minor revisions to permitted projects raising no likelihood of impacts under the criteria of the Act. Applications processed under this section shall be exempt from the distribution, posting and publication requirements of 10 V.S.A. § 6084 and sections (E) through (G) of Rule 10 except that all parties of record and current adjoining landowners shall receive a copy of any administrative amendment. The chair of the District Commission may authorize a waiver of personal notice of the issuance of the administrative amendment to adjoining property owners by the District Commission provided that such waiver is based on a determination that the adjoining property owners subject to the waiver reasonably could not be affected by the proposed administrative amendment and that service to each and every property owner by the District Commission would constitute a significant administrative burden without corresponding benefit.

(2) In particular, administrative amendments may be authorized to transfer a previously unrecorded permit to a new landowner, to incorporate a revision in a certification of compliance, or approve minor changes to a permitted project when such revisions will not have any impact on the criteria of the Act or any finding, term, conclusion or condition of prior permits. Prior to the filing of an appeal to the environmental court pursuant to Chapter 220 of Title 10, any party, affected adjoining landowner, or prospective party shall file a motion to alter relating to any contested administrative amendment pursuant to Rule 31(A). Denial of a

motion to alter an administrative amendment may be appealed to the court pursuant to Chapter 220 of Title 10.

(E) *Balancing Flexibility and Finality of Permit Conditions: (Stowe Club Highlands Analysis)*

(1) In reviewing any amendment application, the District Commission shall first determine whether the applicant proposes to amend a permit condition that was included to resolve an issue critical to the issuance of the permit. This determination shall be made on a case-by-case basis. A permit condition is included to resolve an issue critical to the issuance of the permit if the Project would not comply with one or more Act 250 criteria without the permit condition.

(a) If the applicant does not propose to amend a permit condition that was included to resolve an issue critical to the issuance of the permit, the District Commission's inquiry under this rule shall end, and it may consider the amendment application on its merits.

(b) An application which seeks to amend project plans, exhibits, representations by the applicant for the applicable permit, findings, or conclusions which have been incorporated into the permit through a specific or general condition, shall constitute an application to amend a permit condition.

(2) If the applicant proposes to amend a permit condition that was included to resolve an issue critical to the issuance of a permit, the District Commission shall apply the balancing test set forth in subsection (3) below. If the District Commission finds that the need for finality outweighs the need for flexibility, the District Commission shall dismiss the permit amendment application. If the District Commission finds that the need for flexibility outweighs the need for finality, it shall proceed to consider the amendment application on its merits.

(3) In balancing flexibility against finality, the District Commission shall consider the following, among other relevant factors:

(a) changes in facts, law or regulations beyond the permittee's control;

(b) changes in technology, construction, or operations which necessitate the amendment;

(c) other factors including innovative or alternative design which provide for a more efficient or effective means to mitigate the impact addressed by the permit condition;

(d) other important policy considerations, including the proposed amendment's furtherance of the goals and objectives of duly adopted municipal plans;

(e) manifest error on the part of the District Commission, the environmental board, or the environmental court in the issuance of the permit condition; and

(f) the degree of reliance on prior permit conditions or material representations of the applicant in prior proceeding(s) by any party, the District Commission, the environmental board, the environmental court, or any other person who has a particularized interest protected by 10 V.S.A. Ch. 151 that may be affected by the proposed amendment.

(g) whether the applicant is merely seeking to relitigate the permit condition or to undermine its purpose and intent. —Adopted April 7, 2006, eff. May 1, 2006; amended Sept. 17, 2007, eff. Oct. 3, 2007; amended, September 13, 2013, eff. October 1, 2013.

HISTORY

Amendments—2013. Subsection (A): Added “A permit” to the first sentence; added the second sentence; deleted references to the Land Use Panel, which was eliminated by Act 11 of 2013.

Subsection (C)(1): Moved the phrase “with the appropriate District Commission” to the end of the second sentence; substituted “three” for “five” in the second sentence.

Amendments—2007. Subsection (E): Amended generally.

Rule 35 **Renewal of Permits**

(A) *Renewal required.* For any permit, or partial findings of fact and conclusions of law, which are scheduled to expire under Rule 32(B) or Rule 21 of these rules, renewal shall be required for any extension beyond the expiration date.

(B) *Permit renewal applications.* Applications for permit renewals shall be on forms provided by the board, and shall be filed with the District Commission having jurisdiction over the project. The District Commission will expeditiously review a proposed renewal and determine whether it would involve significant impacts under the criteria and upon the values sought to be preserved by the Act. Factors taken into consideration will include: whether the project has been constructed, operated, and maintained in conformance with the terms and conditions of the permit; whether the extension also involves other amendments to the project; whether the project involves continuing operations that are likely to have demonstrable impacts under the criteria of the Act beyond those considered during previous review of the project; and whether the project is one for which a strictly limited term of operation was anticipated in the original permit. —Adopted April 7, 2006, eff. May 1, 2006, amended June 25, 2009; eff. July 10, 2009.

History



Meeting for LURB Wood Products Manufacturers (WPM) Study Stakeholders

Date: Tuesday April 22, 2025

Time: 9 AM to 12:30

Location: Barre Town office, 149 Websterville Road, Barre (please park at back)

Remote (MS Teams): by request, please contact Kirsten Sultan

Facilitators

Peter Gill, Executive Director, LURB

Kirsten Sultan, Member, LURB

Katharine Servidio, Forest Economy Program Manager, ANR – FPR

Oliver Pierson, Director of Forests, ANR - FPR

Brooke Dingleline, Member, LURB

Technical Support, Notes

Madeline Cotter, Legal Technician, LURB

Invited Stakeholders, Participants

Charlie Hancock, Franklin and Grand Isle County Forester, ANR

Jennifer Mojo, Senior Planner, ANR

Billy Coster, Director of Policy and Planning, ANR

Jamey Fidel, General Counsel, Forest and Wildlife Program Director, VNRC

Nate Sicard, P.E., Ruggles Engineering Services, Inc.

Carla Fenner, PWS, CWS, Team Leader - Ecological Services, VHB

Mike Harris, Zoning Administrator, Town of Burke

Seth Jensen, Deputy Director, Lamoille County Planning Commission

Elisabeth Nance, Working Lands Enterprise Board, ACCD

Trey Martin, Director of Conservation and Rural Community Development, VHCB

Ornella Matta-Figueroa, Land Access and Opportunity Board

Jean Hamilton, Land Access and Opportunity Board

Denise Russo, Agricultural Loan Officer, VEDA

Tim Tierney, Director of Business Recruitment and International Trade, ACCD

Gwynn Zakov, Esq., Lobbyist for Vermont Forests Products Association

Steve Hardy, President, Vermont Forests Products Association

Kate Forrer, Executive Director, Vermont Woodlands Association

Scott Duffy (Rockledge Farm Woodworks), President, Vermont Wood Works Council

Sam Lincoln, Board Member, Professional Logging Contractors of the Northeast

Chris Fife (Weyerhaeuser) Vermont Forest Future Strategic Roadmap ISC

Annette Smith, Vermonters for a Clean Environment



AGENDA

8:30 a.m. Coffee, Tea & Bagels

9:00 a.m. Meeting Start: Welcome, Introductions, Meeting Etiquette

9:10 a.m. Legislation and Study Charge (Attachment A)

9:15 a.m. Background Information, Study Methodology and Status

(i) General Survey of existing Permittees (all categories, 2017 to 2024)

(ii) File Reviews of Wood Product Manufacturer (WPM) Act 250 Permits

9:20 a.m. Review and Discuss Survey Results (20 minutes)

Attachments B and C include the survey questions and key survey results. We will go over the survey results and provide an opportunity for input from WPM Permittees and/or others with experience in permitting activities.

9:40 a.m. Review and Discuss Act 250 File Review Information (20 minutes)

Attachments D and E include the file review information. We will go over the information and provide an opportunity for input.

10:00 a.m. Additional Questions / Discussion (15 minutes)

10:15 a.m. 5 Minute Break

10:20 a.m. Discussion and Facilitators to Summarize Main Themes (15 minutes)

10:35 a.m. Share and Discuss Ideas, Working Group(s) to Identify Ideas (45 minutes). PLEASE BRING YOUR IDEAS. We may break into smaller groups for this portion of the meeting.

11:20 a.m. 5 Minute Break if Needed

11:25 a.m. Share and Discuss Ideas Continued (30 Minutes)

Noon MEETING END - Facilitators to Summarize Status (5 Minutes)

PLEASE NOTE: Except for the starting time, all times are subject to change without notice. This meeting will not be recorded by State personnel. State personnel will take notes and will share the notes with participants – the notes will not attribute ideas or content to individuals.

Wood Products Manufacturers Report Stakeholder Group Meeting April 22, 2025 – Barre Town Offices

Introduction

Welcome everyone. Start with a question is there anyone who thinks we've forgotten to include stakeholders who should be engaged in this report? We cast a pretty big net and thank you everyone for being here. Is there a Farm Bureau representative? They own a lot of land and have an impact on landscape. They were not included in the initial list.

Walk through Attachment A - Legislation

From a permitting perspective, how do we do better supporting the wood products industry in the state. There is an Act 250 rule that says if a permit is needed you have some options, minor and major process. Previous legislation (2017) said for particular industries you start with the minor process, get permit after that, unless you get a request for hearing. This study is asking, how did that work, could the process be tweaked, other ideas to make permitting better for the wood product manufacturing sector. Look at holistic permitting and other permit processes. "Read definition of wood products manufacturer from slide – 10 VSA 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. There is an Act 250 provision that allows for certain permit conditions on Wood Product Manufacturers (WPM) where they can request certain hours of operation, etc. within the regulatory process

Question – so the only different between minor and major process is that there is no hearing for a minor process?

Question – a minor application comes in, and then a neighbor asks for a hearing, does a hearing automatically happen? Answer - The commission determines if a hearing needs to happen, and then a hearing could occur.

Question – how is it any different than any other project that comes in to Act 250. Answer - It's the commissions call, it's similar but for the statutory language WPM applications automatically starts as a minor whereas in the established process the commission makes

that determination on an application being a minor or a major before going on public notice.

Neighbors have to make interest known through the notice process, or in a case where the commission has already scheduled a hearing, the participant can come and be a part of the process

FPR presentation

Forest economy adds \$2billion and \$170million add from wood product business, 1000 direct jobs, 1800? indirect jobs. Industry has had a difficult go of it, in a downward trend with lots of contributing factors, demand for projects fluctuates, availability of labor, processing outside the US, climate change. This study is part of the State of Vermont contribution to support a robust forest products industry. 10 year action plan with mandate from legislature to have a robust and growing industry, and this report is part of that. Seen in testimony, business individuals have shared information with the legislature that regulatory environmental for WPM is too difficult or onerous. Act 250, ANR, local, create difficult environment to operate in. This report is in response to that feedback. Important opportunity to address issues. Report can be a catalyst to change things and identify useful recommendations to be acted on without changes in statute and during the next legislative session.

This is a data driven study. Three prong approach and begin workshopping recommendations. General survey of Act 250 permittees from 2017-2024, file reviews of all Act 250 WPM permits issued in the last 20 years. Preliminary results were shared in meeting documents with this group. We have done a lot on the analytical side to find problems, and where there aren't problems, hear those results. We want to have actions and recommendations that address the real problem.

The survey sent out had a 33% response rate. Survey went out to random selection of applicants (not specifically WPM but we did receive 1). The survey was sent out to the application primary contact, in a random but stratified sample, we didn't want under or over representation of parts of the state.

Question – is there any way to tell how many permits some of the respondents had applied for? Answer – responses were anonymous. Some primary contacts were attorneys, planners, etc. who may have more experience in the application process than others.

Question – are there wood product manufacturer specific challenges that weren't identified in the survey questions/results. Answer - in 2017 the Act 250 50 at 50 study group has input on the process. FPR solicited and engaged with a lot of former/current WPM to

submit testimony to the legislature on website (written), some more could be gleaned from that.

This study focuses on since that time, how is it going. There were legislative changes that occurred based off that 2017 study, doesn't seem like much legislation has changed that those business find problematic.

2017-2018 – 3-acre rule for existing permit holders has required existing Act 250 holders need to amend Act 250 permits. How the permits overlap is understood but there are other things that may drive into Act 250 process.

Mitigation of prime ag soils was updated in Act 181. What's missing in survey, don't necessarily have input of other impacted parties (neighbors) others outside the applicant/primary contact for application.

Act 250 process lays out a lot of entities that can directly engage, it can be hard to get granular and get experience from one to capture subtotal of where we are, but that's why we are here.

Need to amplify what you are surveying to the WPM, because it all rolls in to 'oh well its Act 250' folks just trying to get businesses running are not doing surveys, even as a consultant can tell them something and they can hear something totally different. Think WPM is way more amplified, not hearing the same thing. Survey good for overall snapshot but not sure the survey captures the reality of what dealing with.

Many WPM facilities are in complicated places, mills next to rivers, right down town, that if you were going to site one right now, you wouldn't put it where it is now.

Go through file review data

WPM had higher major and/or minor-to-major applications than other types. No Act 250 Administrative Amendments (Aas) in the last 6 years. Seen a program wide reduction in AAs due to strict rules for using AA. More incomplete letters. Some outliers in the data that aren't included

Question – is there a state program that does all Act 250 applications. Answer – There are 9 District Commissions covering all regions of the state and 5 district offices.

Continuing to go through the file review data, on average it took 4 months to receive an Act 250 permit. Half that time was time waiting for other permits. How many different agencies are involved? Mainly other ANR permits. Act 250 criteria rely upon other state permits to meet criteria. Very different from local process, local conditional permit with saying will get

the other permits. Given difference in satisfaction of applicants in Act 250, a way to have a similar path way to local permitting could help with satisfaction.

Of the majors, they all had engagement from statutory parties. Criteria 1 (air pollution), 1b, 1d, 4, 5, 8 aesthetics, 8 Noise, 9k, 9b.

None had coordinated state agency review.

Question - How many of the 13 were new construction versus amendments to existing permits? Answer - get back to you on that as it is kind of indicative of if people are expanding businesses or creating new businesses.

Question – permit navigator is online; so when someone typically comes in to Act 250 maybe small operator who has never done it before, is there someone that will speak with them and guide them through it. Answer – Act 250 strongly encourages folks to reach out to local coordinator in their district. The coordinator can provide preapplication guidance in a lot of different ways. Staff look at permit history, property maps, mapped resource information, and what's the project, to then provide guidance to applicants. There is discretion for coordinators in how they handle that outreach, can be regionality.

For an applicant the timeline doesn't begin when they submit the application to Act 250, it's when they sit down with engineer, bankers, etc.

Project Review Sheet (PRS) applicants may not know that they are accidentally getting a JO and starting a legal process. Now you have to opt-in to it.

Synthesize main challenges and concerns of folks and then break out into groups to put some ideas on the table of what should be done to make the process better specifically for WPM.

Application processing time (126 days) is that seen as significant challenge to WPM? The concept of time for WPM is different than regulators, breaking through that is much more complex. Psychologically/physical wear you down, not sure where it's going, no end date, real wet blanket.

Permits and not understanding all the different regulators that potentially require permits. How to explain to people from the get-go. Definitely miss the permit specialist position, like having a person to call to talk to versus a computer program. Plain language is needed in permitting. Hire person in FPR to support WPM with applicant processes. An additional step would be a warm hand off, cut through the psychological avoidance, direct connection more of a coaching. Concerning around algorithm and AI report being sent to people, it can be devastating for people to get information that may be missing or incorrect. Even with people there is human error.

Working with citizens, same frustrations as WPM that there is no one to talk to. Providing webinars to citizens/towns on the process, just the process. There does need to be coordination that helps all parties with what the process is and how to navigate it. Having consistency and compliance so that people comply with it, that can minimize the problems when it's in operation. In terms of application, permits are kind of mysterious, similar challenge from public perspective in the regulatory processes.

Neighbor participation – raising concerns about the project; process is there for them to understand and address issues that are brought up

If you have to unravel other permits to address neighbor concerns it's a lot harder than if you are able to get finality in your site plan and meet with neighbors before doing the complex engineering, think it's connected. Technical permits don't really have a way to deal with that, Act 250 process does.

No WPM projects appealed in recent time.

Themes of concern

- Time, not just time to go through process but all the other components of project development and permitting (when saw 4 months for act 250 permitting timeline didn't feel like it was that long overall, 3 years before getting to 30day act250 permit process)
- Act 250 complexity and desire for clarity
- Overall scope and reasonableness of process; cumulative effect of act 250 together with other permits
- Cost \$\$ - permits, and preparing application
- Availability of direct assistance to help understanding what requirements are
- Balance between objectives of Act 250 (economic development and protecting the environment) felt it was weighed more heavily to environment
- Neighbor participation – ways that don't invite opposition from neighbors (noise standards)

What's working and what's not working

Is there a way to support a process that we want to move forward, its valuable, protects the environment, but wants it to be more predictable.

Sequence maybe should be Act 250 first? But the challenge is that you don't know what the impacts are on the land until it's mapped out and see the extent of it.

Is there a way to present to regulators that all the boxes have been checked that doesn't need significant review? The idea of having someone play the role and give the forecast of

timeline and complexity could be very helpful, utility and helpfulness. ANR capacity to coordinate across programs and really try to help, understanding there are financial constraints for applicants, some permit programs do require a professional to apply (not just applicant), DEC permits environmental assistance office does outreach to specific industries (breweries as an example) and that seemed to have a positive effect, provide baseline information, you may need this.

Question - Could you have a permit fast lane?

Some of the technical assistance and review structure should be sector based instead of region based. Sector based suite of approaches for criteria.

The last 18 months have been good for redeveloping (next flood permit, issued that day) FEMA funding a lot of this work, post-disaster development work has improved the landscape

What are the compromises that can be made between ANR permitting and Act 250 permitting, is this an emergency or not.

Prescriptive – keep it simple

Preauthorizing sites (would not include preexisting WPM), trying to attract new business, how do we get new industries into the state, part of that is selling the state (Act 250 holds people back from wanting to engage here), identify sites that would be preapproved, would it streamline and help invest in Vermont and site a facility here.

Project will go through town review at some point, could help town identify areas that are more desirable for that activity

Unfunded mandates from legislature onto state programs

Technical assistance person housed in agency, but other model to evaluate instead of dedicated staff person technical assistance RFQ, contract someone in the industry to be that technical assistance fee for service versus staff person.

Northern border regional commission – put a lot into forest products, transportation, funds there could be a way to talk to them (Sarah Wearing?) to talk about capacity for this issue, business technical assistance for this sector; time dependent grants (3 years) have a few different sector grant programs, FPR has some grants with them, they are complex

Need to make the regulatory path clearer and have a guide on the path.

Can we have a small group come up with an expedited process and then bring back to the big group.

Do we anticipate having this group come back together or take this input and that would inform us of the basis of the report. We can take the information we got and send a draft report to the group and respond and then see about meeting again.

Follow up meeting would need to be in-person.

Proactive outreach – be specific and in writing

Minor + - not straight from minor to major just because hearing might be needed, but have a dialogue about conditions with applicant based on input from party requesting hearing

Specific WPM application and draft permit specific to WPM that has conditions spelled out that would generally apply, to show what the “final” would look like; standard conditions that have rebuttable presumption, if there is an appeal then it’s on person appealing to prove it’s not enough to protect criteria.

Valuable suggestion - Conditional approval gives applicant breathing room

Some towns like to see the Act 250 permit first before giving the town approval, and those towns rely on that permit knowing that other agencies have looked at it and it gives the town confidence to make a decision.

Thank you all for your time today.



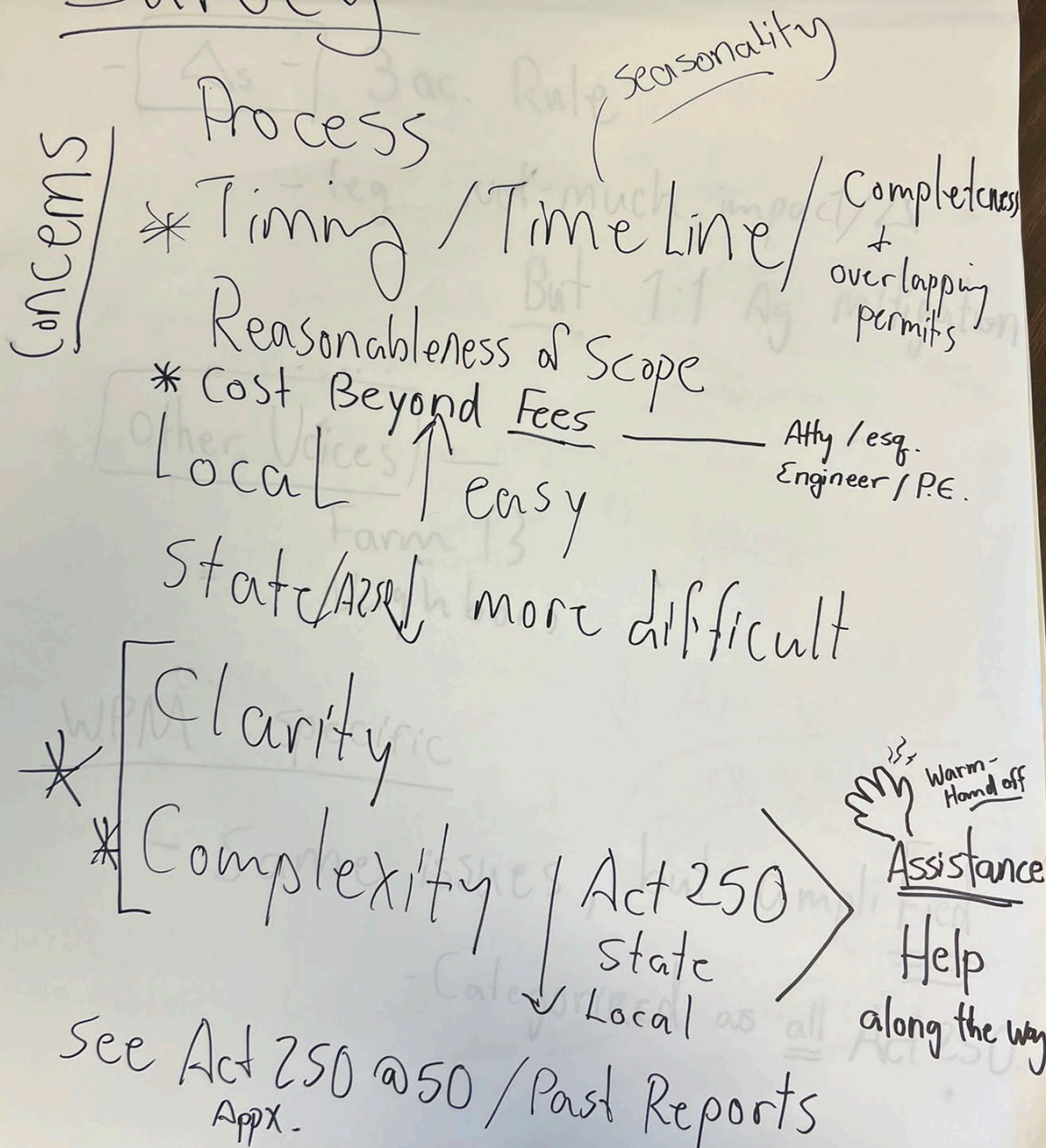
Easel Pad
Tableau à feuilles mobiles
Block de Hojas Reposicionables

Super Sticky
Super Collant
Super Adhesivos

5.2 1/2" (2.5 in x 2.08 in)
5.2 1/2" (2.5 in x 2.08 in)
Cuts 1 block in 30 pages

3M

Survey:



- Δ_s - 3 ac. Rule

- leg. not much impact/ Δ

But 1:1 Ag mitigation

Other Voices -

Farm 13
Neighbors

WPM specific

- Same issues, but amplified

- Categorized as all Act 250

14 apps Reviewed

1 Near Village

1 in Industrial Park

59% No Zoning/Sub. Bylaws

1B
1 Air
Flood
Traffic
Pub. Invest.
Plan
Ag Soil

4 = Majors

2 = Minor → Major

9 = Minors

\$2,400 ave Cost

85% State agency Review (not coordinated)

Received → Notice Issued
32 DAYS

126 DAYS Permit

AA USC
OTHER PERMITS
6/13 State waiting on For 99




→ operation Hours
- Highlight this for Applicants?
→ measure w/ JO Start

ANR Permits: Air MSGP SW


* Local = Conditional, rather than waiting

File Review Con't

- ? - How many Amend. v. 1st app.
- ? - Where is issue? Hard to tease out
b/c applicant can go to ANR 1st or together.

Rule 19
- ? - Who guides applicants
 - District Coordinator  @ Act 250
 - Permit Navigator  (comp. program)  Permit specialists

Time line

- ↳ For applicant  begins funding discussion
- ↳ measure @ JO start

L1/6 50116M CON/1

Suggestions/Comments

- Support / warm-hand off

- Act 250 Checklist

■ Previously
Interagency Review

■ Challenge for Appl. + Partic

- Benefits demonstrated, not directly

- Draft permit, sector specific

- Std. conditions as rebuttable presumption

- Assistant @ state, oversees d permitting / advice of existing services offered by state

- Environmental Assistance office

Scope/Reasonableness of Review

(~~Environmental Assistance office~~)

Cultural Affect Permitting

Navigator
- contract employees
(STF, VHCBS, others)

Cost - permits / services / assistance

Assistance -

Balance of Env./Econ. Dev.

Concerns

① Time ^(from inception)

- pre-authorizing sites (RPC/Towns identify)

- a minor (+) based on certain criterion, std. conditions
- conditional approval
- notice that town permits can be sequenced either b4 or after
- permit fast lane (ANR permitting)
- "Next Permit" - quick process/creativity/compromises (like flood restorations)

Complexity/clarity/Assistance

- Benefits disseminated, put in writing
- Draft permit, sector specific
- std. conditions as rebuttable presumption
- Assistant @ state, overview of permitting/notice of existing services offered by state
- Environmental Assistance office
- Sector-based permitting (general permit)/@ANR

Scope/Reasonableness of Review ^{Cumulative Affect Permitting}

~~(Env. v econ. dev.)~~

Navigator
- contract employees (SJF, VHCB, others)

\$ Cost - permits/services/assistance

~~Assistance~~ -

↑ Balance of Env./Econ. Dev.

😊 Address/Minimize Neighbor Concerns



Meeting for LURB Wood Products Manufacturers (WPM) Study Stakeholders

Date: Thursday May 15, 2025
Time: 2 PM to 5 PM (4:30 PM?)
Location: National Life, Montpelier*
Remote (MS Teams): by request, please contact Kirsten Sultan

* National Life, One National Life Drive
ACCD, Deane C. Davis Building
Catamount Meeting Room
Enter at Main Entrance, stop at security for badge
(Photo ID may be required)

AGENDA

- 2:00 p.m. Welcome, opportunity for feedback on Notes**
- 2:05 p.m. Facilitators to present**
- Recap of Experiences Survey Data, File Review Data
 - Supplemental WPM Meeting Information
 - Recap of Challenges, Minor Process
 - Study Status and Timeline
- 2:20 p.m. All – Questions, Other Information**
- 2:30 p.m. Facilitators to present**
- Conceptual Ideas
- 2:40 p.m. All - Discuss and Review Ideas**
- 3:30 p.m. 5 Minute Break if Needed**
- 3:35 p.m. All - Discuss and Review Ideas Cont'd.**
- 5 p.m. (4:30 p.m.?) MEETING END - Facilitators to Summarize Status (5 Minutes)**

PLEASE NOTE: Except for the starting time, all times are subject to change without notice. This meeting will not be recorded by State personnel. State personnel will take notes and will share the notes with participants – the notes will not attribute ideas or content to individuals.

Wood Products Manufacturers Stakeholder Meeting 5/15/2025

Recap and update since last meeting. Due to the large scope of ideas to get through the SG decided to not spend time doing a recap of the survey and file review information, and instead focused on the numerous ideas.

Since we met, the Department of Forest, Parks, and Recreation (FPR) and the Land Use Review Board (the Board) divided the wood product manufacturer (WPM) Act 250 permittees into two lists for FPR and the Board to meet with individually, and for permittees to share feedback to FPR and the Board. The Board completed this supplemental activity, the on-line meeting was attended by one WPM, and a meeting with a second non-technology applicant also occurred, and Kirsten Sultan shared her detailed notes.

Kirsten Sultan shared “conceptual ideas for stakeholder group discussion purposes only” and walked through the ideas, with assistance from Katharine Servidio. This document lists the identified challenges / concerns followed by ideas for addressing those concerns. That document is reproduced below in **blue font** and new notes are in black:

Challenges: Time / Timeline, Completeness Requirements, Consistency / Predictability, Complexity / Clarity, Duplicative / Redundant Permits

1. Board and ANR to jointly develop sector-specific fact sheet / supplemental guidance document for WPM applicants, to include

- explanation of all terms / items / opportunities that are specific and beneficial to sector (eg Minor process; 1:1 9B agricultural soils mitigation ratio; special provisions re hours of operation – deliveries etc.)
- list of likely collateral ANR permits and contact info and/or point person at ANR
- notice of coordinated ANR pre-application review for WPM with dedicated contact point at ANR policy & planning
- notice of permit sequencing, ie that:
 - ANR permits may be pursued concurrent with Act 250 permitting, and Applicant may apply without reliance on ANR permit(s) under Rule 19
 - Local permitting (when applicable) may be pursued before or after Act 250 permitting
- notice that logging and forestry are exempt (where located below elevation 2,500 feet) pursuant to 10 V.S.A. §6001(3)(D) (with referral to the coordinator for a jurisdictional opinion or JO concerning a specific project)
- notice that an applicant may apply for a “Stonybrook” determination, as a component of a WPM Act 250 permit or permit amendment application, particularly

for WPM projects located on large tracts which are also used for logging / forestry (with referral to the coordinator for instructions)

- Stonybrook determination must be requested by applicant as a component of application review. It would limit the amount of property that is under Act 250 jurisdiction. It affects material change jurisdiction.
- notice that log concentration yards and log transfer stations are not subject to Act 250 jurisdiction pursuant to Environmental Board Advisory Opinion #EO-91-238 (with referral to the Coordinator for a jurisdictional opinion or JO concerning a specific project)
 - Q – what’s the trigger for jurisdiction. A - there’s a definition of WPM in the statute Q - can a log be cut further eg for shipping to increase the value of the log, maybe they make another cut to increase value of log and what’s left over is for firewood, does any of that trigger. Kirsten will get back to this.
 - Q – does the advisory opinion still count even though it was before the definition of WPM? Alison will get back to this.

Board to include a link to this new fact sheet / supplemental guidance in the Act 250 application guide and on the Act 250 website.

- Q – how would that be beneficial for wood products? A – 2 real life examples, one was a sugar house, and another was with managed forest land, a lot of times with UVA on the parcel where the mill is the UVA plan needs to be amended because of Act 250 permit. Prohibitions on specific species, or approvals that are needed before removal. Deer wintering areas, is the project within a certain distance, are there trails, what’s the impact of those activities on the habitat itself. May provide permit conditions or provision within a UVA plan that may ask for higher levels of protection than what’s currently in the plan.
- Q – do landowners know about Stonybrook? Could they pull that area out of UVA and sell as LLC, does that impact jurisdiction if separated? A - Act250 definition of person means that individuals affiliated for profit are treated as one, so setting up an LLC to have ownership of a subdivided lot wouldn’t by itself change applicability of jurisdiction if still the same “person”
- This is an example of a thing that would be great in guidance, but if we can look at where some of these become default instead of needing to request it. This could have a large impact on the longevity of land. Flag this as something that should be the default instead of needing to request it. In forest product manufacturing you can separate out the parcel, it should be the default instead of needing to be requested. If this is WPM then Stonybrook would apply, flip the burden so that folks don’t need

to request it. Will include this as part of report, but one needs to have a map and information to support a Stonybrook request.

- Land trust has a process for delimitating farms from easements, maybe something similar could be used for wood products.
- Under fact sheet concept there was a question asked about whether there could be a default exemption from Act 250 jurisdiction for logging and forestry in statute in the same way it exists for agriculture. When an applicant comes into Act 250 with property used for farming and show that information to commission, commission can say these lands are in farming and are not being regulated.
- Stonybrook is available now wouldn't need any rule or statute change for that.
- Q – what is the reaction to the fact sheet, helpful, good idea, responsive to challenges identified? A – yes A – in terms of feasibility, probably easiest and least time consuming, no statutory changes, develop jointly with ANR

2. ANR to offer specialized WPM permit coordination and support (e.g. as presently available for larger more complex projects)

- Do this already (ski areas) help identify what's needed (other permits, natural resource studies), would be important to pull in FPR and the Board to understand process for operations, would be helpful for providing additional education. Could do this relatively easily
- Q – does this sound like a good idea? Responsive to challenge A – great idea, shoutout to Jen's team. Envision the fact sheet would provide notice of Jen's team that could provide coordinated review
 - Best way to distribute that to people, helpful to know if they know ahead of time (forest products association, etc.) to get the info out there outreach once it's ready FPR help promote and do outreach on this.

3. Board to standardize draft Act 250 permit conditions relevant to special benefits for this sector (eg special provisions for hours of operation, 9B soils mitigation ratio)

- Already do some of that. On the Board end make sure that special provisions are always included when defining the hours of operation. It's an internal facing template on our end and becomes external facing if/when they go through the permitting. Take a look and see if there are opportunities to update them. In terms of process this is attentive to detail and sounds like a good step to take.

4. Board to review and update Act 250 Rule 19 (as part of its planned general Rule update) to: (i) align the presumptions with current ANR permits,

(ii) determine and identify if any of the ancillary permits may be obtained or concluded after Act 250 permitting (e.g. MSGP?)

(iii) determine and identify if any of the ancillary permits may be dispositive

- Board would exam the three bullets and update rule 19.
- Q – if a permit is dispositive, would it have a great effect of someone not being able to appeal it, there can be no probing of it by commission or party. A – yes.
 - For that it's a high burden to overcome, rebuttable presumption. Want to know what permits we would not want to allow that for.
 - Difference between what ANR permit is allowing and Act 250 criteria.
- Q – are there examples where rebuttable presumption has been an issue. A – scope of criteria is often worded or phrased that is broader than what an ANR permit address, so that is the avenue to have either additional conditions, or different conditions, from applicants' perspective it feels like it reopens a permit they were issued. From objective third party, criteria are written broader, commission is addressing something that wasn't addressed in ANR permit.
- When these permits are appealed or when rebuttable presumption is a good discussion, another is the layout of site for applicants in terms, challenges can be timing, financing, other sequences that need to happen regardless of it's appealed. Include a way for Act 250 to grant approvals with conditions on receiving technical permits and if there are issues with criteria, you could add condition in addition to technical permit can then put engineering detail. Seems focused on appeal piece and there's another side of applicant with resource limitations
- Q – opportunities to front load the uncertainty, need enough information to know where things are going to be on the property to know if you want to engage. Act 250 has features called partial findings, commission review and decide a subset of criteria, so if they have critical components the applicant can come for a lower fee and get those decided before advancing engineering, but it is not attractive to applicants to come to Act 250 twice.
 - Think that's a really important point. Partial findings were a great option for larger developments, for smaller ones it's rough. Working on municipal projects, you can have enough engineering to know this area is going to be needed for stormwater, wastewater/well, there's a lot more work to actually meet all technical permit requirements once you know that. Act 250 can deal with site plan issues, front loaded, so someone gets finality of yes, this site plan will meet aesthetics etc. and then do the more technical engineering. Eg local review might have 30% 60-70% 100%, can Act 250 have similar approach, get approval then do the more technical engineering later in process. Not sure if dispositive or conditional approval is in here, works well

a local level and works well with public infrastructure agency review level, seems like we could make it work for Act 250.

- Q – how can we speed up or support the process itself. Having an opportunity (rule 16D) for parties to get together ahead of time, could the informal meeting be a site visit to see the parcel/location? A – statute already contains the opportunity for district commission to hold informal discussions, wonder if it's used, seems to be an opportunity to start things out that are not a fight, but working together, everything changes when sit down and talk. What's necessary for it to happen, people need to be aware, sit around the same table could be helpful in diffusing issues. A – informal discussion before formal hearing, still see benefit to in-person. Often when people try to work things out, trust is an issue, have an independent third party to facilitate discussion and stay on track, that component is what needs to happen. Is there a role for commissioners at that stage, not sure, but maybe district coordinators. Interpreting that this would be a step, the trigger would be application notice to neighbor, project becomes known and then have a less formal meeting, take less time and cost less. It has been suggested that this be done before minor/major determination
- Concerned about the scope of this and potential scope creep, informal to work out problems, see a path where this becomes two hearings and you need an attorney. Applicants feel they have been burned before because they were told they don't need a lawyer and then opponents show up with lawyers.
- Not sure that this suggestion is specific enough to WPM, it may be more broadly applicable to Act 250.

5. Board to review and update Act 250 Rule 34 (as part of its planned general Rule update) to clarify and/or revise the thresholds for substantial and material changes that trigger the need for a permit or permit amendment for WPM (and other developments)

- Rulemaking is a lengthy process; this would involve additional review and discussion outside of just WPM stakeholders
- Don't feel like this is responsive to WPM. If go through this process and look at WPM first, could see it included in the report, but not sure if it's happening anyway that it would be responsive to this study
- How would you update this? A – people want this to be done, currently it's unclear and not to scale for the work
- These businesses are not analogous to all businesses that Act 250 looks at, a sawmill is not Walmart, and Act 250 basically treats them the same.
- Clarification and revised thresholds – ideas on what these are?

- Example – lumber mill needed to upgrade emissions equipment to meet air quality standards, and that change triggered need for Act 250 permit amendment. Stormwater 3-acre rule has done the same thing; to comply with one state permit they need to update the Act 250 permit. Thresholds for permit/permit amendment to enable reasonable flexibility for operation to meet changing regulatory requirements and flexibility to address market conditions when there isn't a material impact on conditions. Does state need to double dip, can it be done with Administrative Amendment, minor, or does it need amendment at all if there is ANR review, and flexibility in business to keep operation. Does modernizing saws or upgrading kilns require permit amendment if there is no real increase in impervious surface, or noise or traffic.
 - Getting a saw mill off diesel generators and on to 3 phase power would require Act 250 permit amendment, so people are choosing to stay on generators instead of get Act 250 permit
- Feel like we have WPM specific content to be included in rule process concepts

6. XXXXX (named entity) to continue advocacy and pursue funding for WPM permit specialist / ombudsperson with regulatory expertise

- Support the concept
- Like the concept but it can be expensive and hard to justify. Happy to think through what the meat of this recommendation would be to get this adequately funded and be strategic about this.
- Need for a role has come up in appeals study, not identical but could also examine and capture there
- Unintended consequence, currently people go online, get directed somewhere, then get directed somewhere else, careful of wording of this position, may not actually make the process better to add another person into the process
- A role like this would have good feedback for the system, could offer clear and specific feedback on bottlenecks, what folks are experiencing, in ways that are helpful year after year
- A duty to make the system more accessible. If we can't get there with robust resources, it would be great to have an office to educate the technical assistants

7. Board (and/or with ANR?) to undertake additional targeted Act 250 (and ANR?) staff training for WPM projects, in coordination with the Board's State Coordinator

- Need clarification on who is getting trained, who is providing training?
- The Board would do supplemental targeted training to coordinators with state coordinator leading that initiative and have ANR assist in that training.
- Internal training
- Don't want bad training

8. Board to assign a single Act 250 Coordinator for the WPM sector, to build up expertise

- See some potential downsides to having it on just one staff person, make sense to keep everyone well versed and trained. Act 250 permit decisions are made by the commissions in one of the 9 regions of the state, so having only 1 coordinator working with all commissions across the state could be complicated.
- Revise recommendation to include training for all staff

9. Standard conditions as “rebuttable presumptions”

- Does this concept still resonate with the group?
- Is there a difference between coming up with some best management practice (BMP) standards for issues that come up, combining awareness of issues that come up, like hours of operation were implemented because it came up a lot. Not sure about turning it into rebuttable presumption. Is there a process or guidance to address this.
- Trying to figure out a way for people to say “oh we can comply with that, no problem” sound levels will be within appropriate area, if you can prove that you can comply than it’s a fast pass to compliance with that criterion
- Hours of operation is how some things are resolved, can be site specific
- This path needs a lot of time and focus, but could apply to more than noise
- Really like this idea, gets Act 250 towards more of a general permit approach

10. Address / minimize neighbor concerns

- Somewhat aligned with bullet 9.
- Provide opportunity to resolve adversarial issues informally before the application is taken up by commission (discussed earlier)

11. Minor Plus

- Could we get to middle ground between minor and major process for WPM.
- If having conversation on the side and then didn’t need a hearing, could be successful
- Related to Rule 16D, can remove this from the recommendations in the report.

Challenge: Cumulative Scope / Reasonableness for Scope / Scale

12. Board to report support for revised definition of development (or Board to undertake Rulemaking) to exempt small scale WPM facilities (below specific limited thresholds, e.g. maximum volume / output, maximum days of operation etc.) to establish exemption for small-scale WPM with noise addressed (i.e. develop a noise standard (or factors to address noise) for this new WPM exemption if pursued)

- It would be helpful to know some of the examples this would cover.
 - Could be firewood processing, small-scale operators
- Analogous to looking at a substantial/material change and what instance you come under Act 250 jurisdiction
- Comes back to the details
- Location-based, does it make sense to incentive these kinds of businesses
- De minimis activity seems reasonable
- It is possible that there are currently operations that meet this threshold, what happens to them, does that permit go away?
- Not sure a big focus on this is warranted. This is clean-up and good to do if it's easy, but wouldn't keep it on the list

13. Changing the jurisdictional trigger for this sector to the 10-acre town standard

- Developing a project on land without Act 250 permit history, the jurisdiction would be determined by size of tract (less than 10 acres wouldn't need a permit). Currently, towns with zoning/subdivision bylaws there is a 10-acre threshold, towns with no zoning/subdivision bylaws there is a 1-acre threshold for jurisdiction.
 - Could mean more environmental impacts that are not reviewed
- This is problematic and don't recommend considering this. Could see these inviting problems.
- Can look at file review data to see the Act 250 review process that wouldn't be provided
- Keep hearing the complexity, (example – definition of development), not sure amending the statute is the right approach, it can make things more complicated

Challenge: Staff Responsiveness / Availability

14. Board to continue support and advocacy for adequately staffing regional offices

- How will you know you've achieved this?
- Who defines adequately? From the applicant's point of view, or from Board point of view
- We looked at a lot of numbers initially, and maybe looking at the numbers would be a way to measure this
 - This is captured in our annual report to the legislature.
- This recommendation is not within the scope of this report

Challenge: \$ Cost (may extend beyond application fees eg consulting engineer)

15. XXXXX (named entity) to provide outreach concerning availability of grants (are any known grants expected to be available?)

- FPR provides a lot of grants and outreach around grants. Outreach can always be better, the limitation is that there aren't grant programs for this, few programs that go to for-profit businesses.
- Focus on process improvements that eliminate the need for hiring engineers again after you've already paid them a lot for their services.
- Tier 1 – if enterprises located in Tier 1, they won't need to go through Act 250, feasibility of putting mill infrastructure in Tier 1 areas. Or enterprise zones, to be designated an enterprise zone there is most likely heavy industry there, less likely to have neighbor complaints on noise. Challenge is business needs to be near resource.
- Issue with rhetoric that Tier 1 is "open for all development", local review process would be looking at this
- What about incentivizing WPM at log landings, open area that makes sense to adapt it, heard No from FPR saying they need to be kept available for the next logging operation
- Idea of pre-determining where these facilities can be
- This suggestion needs more time and effort put into it, because we can't just say "it's here or it's there"
- Enterprise areas are not currently eligible for Tier 1 designation, like the concept but would need statutory change. Some of the neighborhood areas could be measured from the border of the zone versus property. If doing lumber mill next to industrial park, your noise and stuff could be based on edge of industrial area because won't be impacting box making factory in the park where there is already noise. These will go through Regional Planning Commission Future Land Use map process and Board review.
 - Broader discussion about enterprise areas and tier 1b, would like to have that conversation might need bigger discussion.

Other

16. Based on the file review, no known WPM Permittees with Act 250 permit conditions containing operating hours have applied for revised operating hours under 10 V.S.A. §6086(c)(2), since this provision took effect in 2022. Potential action: FPR (Board?) to transmit, to the identified WPM Permittees (i.e. with Act 250 permits containing operating hours), using contact information on file with Act 250, a memo to make Permittees aware

of the opportunity to apply for revised hours under 10 V.S.A. §6086(c)(2) (with referral to the Act 250 website and Coordinator for application instructions)

- Not sure we know where all permittees fall in sector type but could do outreach.
 - Probably some reasons why people haven't taken this up. It's not a guarantee, it's a permit process and sometimes those have gone in unanticipated directions for applicants without certainty of the outcome
- This can go in the factsheet

17. Logging / forestry item (not within WPM study scope): extending benefits similar to 10 VSA §6001(3) and 10 VSA §6801(s) to apply Stonybrook by default and explicitly exempt forestry and logging on parcels under 2500' with Act 250 permits.

- Discussed this a bit earlier in the meeting under Stonybrook discussion.
- This would directly affect some WPM, the legislature didn't say to look at this but find it challenging to separate raw production from study, can't have one without the other
- Ask that this be considered for WPM permittees as a whole. There are permittees that have UVA land and other parts of parcel that are under act 250
- This proposal goes to scale of the operation
- This would be a statutory change

Mailing address:
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STATE OF VERMONT
ENVIRONMENTAL BOARD
MONTPELIER, VERMONT 05602
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July 25, 1991

John Hardy, Jr.
Box 1644
Brook Road
Plainfield, Vermont 05667

RE: Advisory Opinion Request #EO-91-238
John Hardy, Jr., Plainfield, Vermont
Brook Road Logging Operation

Dear Mr. Hardy:

This is an executive officer advisory opinion issued in response to your letter received on May 30, 1991, in which you requested a review of Advisory Opinion #5-91-7, issued on April 26, 1991, by Christine Melicharek, Assistant Coordinator for District #5. In that opinion, Ms. Melicharek concluded that an Act 250 permit is required for construction of a garage in 1980 and for the placing of fill in 1990 on a site located on Brook Road in Plainfield which is used as a log transfer station. For the reasons noted below, I disagree with that opinion and conclude that an Act 250 permit is not required for these activities.

Issues

1. Whether the operation of a log transfer station falls within the definition of "development" as set forth in 10 V.S.A. § 6001(3).
2. Whether the construction of a garage on the site in 1980 constitutes "development" as set forth in 10 V.S.A. § 6001(3).
3. Whether the placing of fill on the site constitutes "development" as set forth in 10 V.S.A. § 6001(3).

Facts

Facts

This advisory opinion is based on the following information:

1. John Hardy, Jr. has used a portion of a 10.2-acre tract of land (the tract) located on Brook Road in Plainfield for logging operations since 1968. The tract was originally part of a 65-acre tract of land owned by John Hardy, Sr. and Kathleen Hardy. In 1987, John Hardy, Sr. and Kathleen Hardy conveyed 10.2 acres of the 65 acres to John Hardy, Jr. The tract is divided by Brook Road into an eight-acre parcel and a 2.2-acre parcel.
2. The 2.2-acre portion of the tract is currently used as a log transfer station, also known as a concentration yard. Mr. Hardy purchases logs from other loggers and cuts logs himself, which he gathers at the site prior to conveyance to a sawmill for processing. No processing of logs occurs at the site.
3. In 1980, John Hardy, Jr. constructed a 26 x 50 foot garage on the 2.2-acre portion of the tract. A determination of whether an Act 250 permit was required for the construction of the garage was not obtained.
4. The garage is used for storage and maintenance of equipment used in the log transfer station operation. The garage is not used for maintenance and repair of any vehicles other than those used by John Hardy, Jr. for the log transfer operation.
5. Suzanne and Tom Howard, adjoining landowners, allege that Mr. Hardy rents the garage to a third person for storage of a truck. Mr. Hardy asserts that he does not rent any storage space.
6. During the summer of 1990, following severe flooding, the Town of Plainfield removed sediment from the Great Brook and deposited it as fill on the two-acre portion of the tract, thereby increasing the area used for the log transfer operation by 100 x 30 feet.
7. The Town of Plainfield has not adopted permanent zoning and subdivision bylaws.
8. According to information provided in a letter dated June 20, 1991, of Stephen Sease, Director of the Planning Division of the Agency of Natural Resources, it is a common practice in the logging industry in Vermont for logs to be removed to concentra-tion yards where they can be sorted and stored

until sufficient quantities are available to ship to the mill, or until there is a good market for the logs. This practice allows some loggers who work in the forest to sell cut logs to others who complete the process of delivering the logs to the mill.

Discussion

1. Operation of a Log Transfer Station

10 V.S.A. § 6001(3), in pertinent part, provides as follows:

"Development" shall . . . mean the construction of improvements for commercial or industrial purposes on more than one acre of land within a municipality which has not adopted permanent zoning and subdivision bylaws.

The word "development" shall not include construction for farming, logging or forestry purposes below the elevation of 2500 feet.

Logging is not defined in 10 V.S.A. Chapter 151 (Act 250) or in the Environmental Board Rules. Its ordinary definition is: "The work or business of felling trees and conveying the logs to a mill." Webster's II Dictionary, (Riverside Publishing Company, 1984) at 702. As cited in Ms. Melicharek's advisory opinion, the term is also defined in the Forestry Handbook, (2d edition, John Waley and Sons, 1984) at 491, as including all operations from the stump delivery to the mill, including felling, delimbing, bucking, transport to roadside, loading and hauling.

Both of these definitions go beyond the mere felling of trees and include the conveyance of logs to a mill. The question presented by the operation of a log transfer station is whether, in order to qualify for the logging exemption, the conveyance must be directly from the felling site to the mill, or whether logs may be conveyed to another location before eventual transfer to a mill. These definitions do not appear to exclude transfer to a site other than where the trees are cut prior to conveyance to a mill.

In reaching this decision I have also relied on the information provided by the Agency of Natural Resources concerning the nature of logging operations. As described in Mr. Sease's letter, logging operations often include removal to a concentration yard where they can be sorted and stored until sufficient quantities are available to ship to the mill, or until

there is a good market for the logs. The activity conducted by John Hardy, Jr. falls within this common practice.

I have considered the legal opinion of Patrick L. Biggam, Esq., provided to the Town of Plainfield Selectman, submitted by the Howards. Mr. Biggam concludes that storing logs purchased from third parties does not constitute agricultural or forestry use. The legal analysis in that opinion relates to the definition of the terms "agricultural use" and "forestry use" which appear in the Plainfield zoning ordinance. I note that the definitions of those terms do not include conveyance of agricultural or forestry products as part of the customary meaning of those terms, unlike the definitions of "logging" cited above.

Based upon the common definitions of logging and my understanding of common logging practices, I conclude that the operation of a log transfer station constitutes logging within the meaning of 10 V.S.A. § 6001(3).

2. Construction of the Garage and Filling of the Site

As cited above, the definition of "development" in 10 V.S.A. § 6001(3), includes the term "construction of improvements." Board Rule 2(D) defines "construction of improvements" as "any physical action on a project site which initiates development for any purpose enumerated in Rule 2(A)." Rule 2(A) incorporates the definition of development set forth in 10 V.S.A. § 6001(3) above. In my opinion, the construction of the garage in 1980 and the filling of the site in 1990 both constitute the "construction of improvements" within this definition if the project is otherwise a "development."

If the garage or the filled site were used for other than "logging purposes" within the meaning of 10 V.S.A. § 6001(3), the project would be a "development" because it would not fall within the logging exemption and the definition of "development" would be met.

However, based on the information provided, I conclude that the garage and filled area are not used for other than logging purposes. I am relying on Mr. Hardy's statements with regard to use of the property in the absence of more persuasive evidence to the contrary. Because the garage and filled area are used for logging purposes, I conclude that they do not constitute "development" and that an Act 250 permit is not required for either the construction of the garage or the placing of fill.

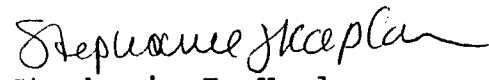
Conclusion

I have concluded that an Act 250 permit is not required for the operation of a log transfer station. I have also concluded that an Act 250 permit is not required for the construction of a garage used for storage of and maintenance of vehicles used in that log transfer operation or for the placing of fill on the site of the log transfer operation.

My conclusion is based on the facts set forth above. In the event that any of these facts do not accurately describe the activity on the project site, or if the operation as described changes at any time in the future, this opinion will not be considered dispositive of the issues set forth above.

By copy of this letter, I am advising all parties of my jurisdictional decision. Any party who wished to contest this decision may do so by filing for a declaratory ruling with the Board pursuant to Board Rule 3(C). Any such filing must be made by August 26, 1991.

Very truly yours,


Stephanie J. Kaplan
Executive Officer

SJK:ccm

cc: certificate of service

Existing Legislation Excerpts

Act 181, 2024

- (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.

10 V.S.A. § 6093. Mitigation of primary agricultural soils

- (a) Mitigation for loss of primary agricultural soils. Suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

[...]

- (5) Wood products manufacturers. Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils by a wood products manufacturing facility shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1 protected acres to acres of affected primary agricultural soil.

10 V.S.A §6001(3) (D) The word “development” does not include:

- (i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

[...]

10 V.S.A. §6001(43) “Wood product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

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.

10 V.S.A. §6086(c)(2)

(A) When issuing a permit with conditions on wood products manufacturing and delivery, the District Commission shall account for the seasonal, weather-dependent, land-dependent, and varied conditions unique to the industry.

(B) A permit condition that sets hours of operation for a wood products manufacturer shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section. If an adverse impact would result, a permit with conditions shall allow the manufacturer to operate while allowing for flexible timing of deliveries of wood products from forestry operations to the manufacturer outside permitted hours of operation, including nights, weekends, and holidays, for the number of days demonstrated by the manufacturer as necessary to enable deliveries, not to exceed 90 days per year.

(C) Permit with conditions on the delivery of wood heat fuels. A permit with conditions issued to a wood products manufacturer that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow for flexible delivery of that fuel wood from the manufacturer to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year. Permits with conditions shall mitigate the undue adverse impacts while enabling deliveries by the manufacturer.

(D) Permit amendments. A wood products manufacturer holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (B) and (C) of this subsection (c). Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34(E).



Town of Burke

Zoning and Subdivision Bylaw

<u>HISTORY OF AMENDMENTS TO BURKE ZONING REGULATIONS</u>	
May 7, 1984	Zoning Regulations amended.
December 7, 1987	Zoning Regulations amended.
January 6, 1990	Original Subdivision Bylaw adopted.
May 2, 1988	Zoning Regulations amended.
May 6, 2001	Zoning Regulations amended regarding provisions for spreading biochemical waste, storage of unregistered vehicles, mobile home parks, abandonment of structures, and setbacks.
November 11, 2006	Zoning Regulations amended to bring them into compliance with new state regulations. Development Review Board created.
July 25, 2007	Zoning Regulations amended to incorporate subdivision regulations, additional zoning districts including a scenic/conservation overlay, residential clustering, expanded PUD provisions, signage and lighting, and provisions for site plan review. <i>This revision was partially funded by a Municipal Planning Grant, awarded by the Vermont Agency of Commerce and Community Development.</i>
March 4, 2008	Amended by public vote to include section §319. Waiver of Setback Requirements.
July 6, 2009	Replaced §908. Traffic Management, added §909. Independent Technical Review and renumbered subsequent Article 9 sections.
August 2, 2009	Amended §210(4). Agricultural-Residential II (“AR II”) to add light industry use in ARII along VT Route 5.
August 2, 2010	Replaced §319. Waiver of Setback Requirements to add administrative review option. Minor technical changes to correct referenced section numbers.

July 11, 2011	<p>Removed light industry. Added Class I, Class II, and Class III Industrial Uses and Resource-based Industries. Amended §404 for Home Occupation standards, created exemption for Home Offices, and created provisions and standards for Home Businesses Added §405 Industrial Uses. Revised §204 to allow uses not listed in land use tables, subject to Conditional Use Review and Performance Standards. <i>This revision was partially funded by a Municipal Planning Grant, awarded by the Vermont Agency of Commerce and Community Development.</i></p>
April 10, 2018	<ul style="list-style-type: none"> – Defined Construction sign 305(1)L – Added off-street parking provision 310 and standalone parking area definition – Changed number of maps required for final subdivision review from 4 to 2 605(2)A and 605(4)B – §702 Saving Clause removed – Replaced and moved subdivision section – Replaced and moved PUD section – Eliminated separate Clustering provision and incorporated with subdivision provision – Added Daycare Center to ARII District – Removed §408. Storage of Unregistered Vehicles – Removed §411 (2) to not require a minimum acreage for a campground – Included all of incorporated West Burke Village in VMU zoning district – Bylaw updates reflect current National Flood Insurance program requirements and development in areas subject to fluvial erosion. – Renumbered as appropriate <p><i>This revision was partially funded by a Municipal Planning Grant, awarded by the Vermont Agency of Commerce and Community Development.</i></p>
May 26, 2023	<ul style="list-style-type: none"> - Added accessory campsites -

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- I. The home business shall not generate noise, smoke, vibrations, dust, glare, odor, electrical interference or heat which is detectable at the property line, or which otherwise presents a hazard to public health and safety, or to neighboring properties.
- J. On-site retail sales shall be minor and incidental to the business.

§405. Industrial Uses

- (1) In addition to the general provisions in Article 3, the following standards shall apply to all uses which fall under the classifications of Industrial I, Industrial II, and Industrial III, and Resource-Based Industries. Pre-existing uses and operations in lawful existence as of the effective date of these regulations which exceed any of these standards shall be treated as a nonconforming use and shall be considered exempt until they are discontinued or altered in accordance with §313 of this bylaw.
- (2) The Development Review Board may require an independent study pertaining to one or more of the potential impacts to adjoining properties and uses within the vicinity of the project to ensure that the proposed use will operate in conformance with the standards.

A. Dimensions/Intensity:

- i. Class I Industrial use structures shall be no greater than 10,000 sq. ft.
- ii. Class II Industrial uses shall be sited on lots that are no smaller than two acres. Gross floor area shall cover no more than 30% of the buildable area the lot. (See the inset.)
- iii. Class III Industrial uses shall require a minimum lot size of five acres. Gross floor area shall cover no more than 30% of buildable area the lot. (See inset.)

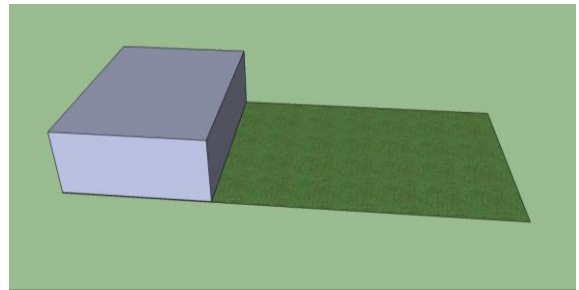
B. Enclosure of Activity:

- i. All activities associated with Class I Industrial uses shall be enclosed within the principal structure on the lot.
- ii. All activities associated with Class II Industrial uses shall be enclosed within a structure on the lot.

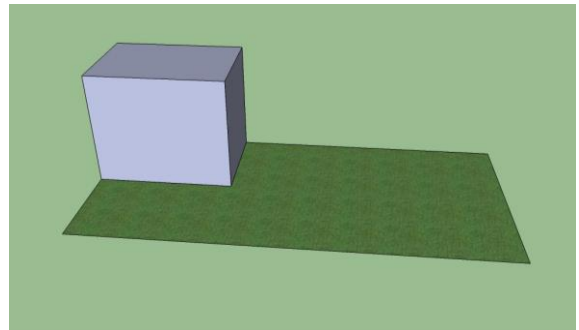
The Gross Floor Area is the sum of all the horizontal areas of all the enclosed floors of a building, including cellars, basements, corridors and lobbies.

The Gross Floor Area for Class II and III Industrial uses can equal no more than 30% of the buildable area of the lot.

For example, this shows a 30% gross floor area for a one-story building. (Figure 1)



This shows a 30% gross floor area for a two-story building. (Figure 2)



C. Fire and Explosion:

- i. The manufacture of flammable liquids and gases and explosive materials is prohibited for Class I and Class II Industrial uses.
- ii. All flammable and explosive materials used in processing shall be equipped with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment and devices which are standard for such industry or activity.

D. Vibration: All industrial uses shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the lot line. Temporary construction and maintenance activities are excluded from this restriction.

E. Noise:

- i. Whether pulsating, intermittent, or continuous, noise shall not exceed 60 decibels at the lot line of the property from which it originates from 7:30 a.m. to 7:30 p.m. Specifically exempted from these standards are:
 1. Maintenance or construction activity;
 2. Transportation vehicles not used in the ordinary operation of a use or a business; and
 3. Occasionally used safety signals, warning devices, and emergency relief valves.
- ii. Whether pulsating, intermittent, or continuous, noise shall not exceed 40 decibels at the lot line of the property from which it originates from 7:30 p.m. to 7:30 a.m.

F. Odor: The emission of odors that are considered offensive to most reasonable people and are detectable at the property line are not permitted.

G. Emissions, Particulates and Air Pollution:

- i. No emissions shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling at any point on or beyond the property.
- ii. Dust created by an industrial operation shall not be exhausted or wasted directly into the atmosphere.
- iii. Dust and other types of air pollution borne by the wind from such sources as storage areas and roads shall be minimized by landscaping or other acceptable means.

H. Electrical Interference: The industrial use shall not create electrical interference in neighboring buildings or land uses.

I. Heat: Heat emitted at any or all points shall not at any time cause temperature increase perceptible to humans on any adjacent property, whether such change be in air, ground or water temperature, or in the temperature of any structure adjoining the property.

J. **Lighting:** Industrial and exterior lighting shall conform to the standards of §306 of this bylaw and shall not be used in such a manner that produces glare on public roads and neighboring properties. Arc welding, acetylene torch cutting or similar process shall be performed so as not to be seen from the nearest public right of way or neighboring properties.

K. **Liquid and Solid Wastes:** No discharge of liquid or solid wastes or other materials of such nature of temperature as can contaminate surface or groundwater shall be permitted into the ground or any rivers, lakes, or ponds, except in accordance with all state and federal regulations.

L. Open Storage:

- i. Open storage of materials incidental to Class I and Class II Industrial uses is prohibited.
- ii. All open storage of materials incidental to Class III Industrial uses and Resource-based Industries shall be screened from view from the nearest public right of way and neighboring properties and shall be secured from access by the general public.
- iii. The open storage of lumber or other combustible materials shall be situated so it may be accessible to fire trucks at any time.

M. Traffic:

- i. Traffic and trip generation shall not reduce the operating level of the Burke's state and town highways below a level of service "C." To this end, the Development Review Board may require a Traffic Management study in accordance with §808 of this bylaw.
- ii. Class I Industrial uses shall have no more than three (3) truck deliveries per day.
- iii. Delivery truck traffic of Class II Industrial uses shall not exceed 10% of the projected daily trip generation.
- iv. Hours of Operation: Operating hours for Class I and Class II Industrial uses shall be from 7:30 a.m. to 7:30 p.m. The Development Review Board reserves the right to modify or restrict hours of operation for all classes of industrial uses.

§406. Adaptive Reuse of Historic Accessory and Industrial Structures

- (1) The overall purpose of this section is to encourage the viability, reuse, restoration, and rehabilitation of historic accessory structures, such as barns and carriage houses, and industrial structures, such as mills; by allowing for specified uses not otherwise allowed in the district in which they are located, within the current dimensions. Any changes associated with the adaptive reuse shall not significantly alter the facade of the building and shall be in keeping with the essential character of the neighborhood.
- (2) For the purposes of this bylaw, applicable structures must be at least fifty (50) years old and either listed or eligible for listing on the state register of historic sites and structures.

- (3) The following uses may be allowed, subject to conditional use review:
 - A. Permitted and conditional uses allowed in the district in which the structure is located.
 - B. The following additional uses, if not otherwise allowed in the district:
 - i. Art Studio (with no more than 5 artisans or employees on site at any time)
 - ii. Business/Professional Services
 - iii. Community Center
 - iv. Cultural Facility
 - v. School
 - C. Any combination of the above
- (4) All adaptive reuse of historic accessory or industrial structures shall also meet the following requirements:
 - A. The proposed adaptive reuse of a nonconforming structure shall in no way increase the degree of nonconformity.
 - B. The proposed adaptive reuse shall not significantly alter the footprint, essential character, or immediate context of the historic accessory or industrial structure. In reviewing proposals for adaptive reuse, the Development Review Board shall determine that the adaptive reuse is in accordance with the Burke Town Plan, and that the historic character of the structure will be retained to the extent practical.
- (5) A zoning permit issued for an adaptive reuse shall clearly state that the use shall not be re-established if the structure is substantially modified, except in accordance with the requirements of these regulations. All applicable permits and approvals shall be obtained prior to the re-establishment of such use in a substantially modified structure.
- (6) In the event that the historic accessory or industrial structure is destroyed or demolished, the structure may be reconstructed and the adaptive re-use re-established with the approval of the Development Review Board under §807. In allowing such reconstruction and re-establishment, the Development Review Board shall determine that, in addition to meeting conditional use standards, the replacement structure closely replicates the historic structure in architectural style, form, massing, scale, building materials, and fenestration.

§407. Extraction of Earth Resources

- (1) The commercial extraction or removal of topsoil, sand, gravel, rock, minerals, or other similar earth resource is allowed in the Agricultural-Residential II district and is subject to conditional use review under §807 of this bylaw. In addition to the conditional use standards set forth in §807, for commercial extraction operations that are likely to impact surrounding properties due to the scale, intensity, and timing of the extraction, the presence of fragile natural features (e.g. steep slopes, riparian land), and/or the relative density of nearby land uses, the Development Review Board may also require erosion control and site reclamation plans showing:

- A. Existing grades, drainage patterns, and depths to bedrock and the seasonal high water table;
 - B. The extent and magnitude of the proposed operation, including proposed phasing;
 - C. Finished grades at the conclusion of the operation; and
 - D. A detailed plan for the restoration of the site, including final grading and revegetation.
- (2) In granting approval, the Development Review Board may impose conditions with regard to any of the following:
- A. Depth of excavation or quarrying;
 - B. Slopes created by removal;
 - C. Effects on surface drainage, both on- and off-site;
 - D. Storage of equipment and stockpiling of materials on-site;
 - E. Hours of operation for blasting, trucking, and processing operations;
 - F. Effect on adjacent properties due to noise, dust, or vibration;
 - G. Effect on traffic and road conditions, including potential physical damage to public roads;
 - H. Creation of safety hazards;
 - I. Temporary and permanent erosion control, including project phasing to limit exposed area;
 - J. Effect on ground and surface water quality, and drinking water supplies;
 - K. Effect on natural, cultural, historic, or scenic resources, either on-site or in the vicinity of the project;
 - L. Effect on agricultural land; and
 - M. Public health, safety, and general welfare.
- (3) In approving an application, the Development Review Board may require a bond to ensure reclamation of the land upon completion of the excavation, to include any regrading, reseeding, reforestation, or other reclamation activities that may be required as deemed reasonable. This provision specifically does not apply to mining or quarrying operations.
- (4) This section shall not apply to normal agricultural and/or forestry operations, public (municipal and state) road maintenance and construction, the operation of a cemetery, or the removal of earth resources for a use that is incidental to another duly permitted construction activity located on the same parcel from which the materials were extracted.

5.700 RULE ON SOUND LEVELS FROM WIND GENERATION FACILITIES**5.701 Purpose and Applicability**

This rule establishes standards and procedures related to sound emissions from wind generation facilities that apply for a certificate of public good (“CPG”) pursuant to 30 V.S.A. § 248 on or after July 1, 2017.

5.702 Definitions

For the purposes of this Rule, the following definitions shall apply:

Commission: the Vermont Public Utility Commission

Contributing turbines: the turbine or group of turbines at a wind generation facility whose removal from a facility sound model results in a residual project-only predicted sound pressure level at the receptor of less than 30 dBA or a reduction in predicted turbine contribution of at least 6 dB at the point of measurement

CPG: certificate of public good

CPG Holder: a person or company who holds a CPG granted pursuant to 30 V.S.A. § 248 for a wind generation facility

dB: a unit used to measure the intensity of a sound wave using a logarithmic scale

dBA: A-weighted decibel

Department: the Vermont Department of Public Service

L_{A10}: Sound level exceeded during 10% of a measurement period

L_{A50}: Sound level exceeded during 50% of a measurement period

L_{A90}: Sound level exceeded during 90% of a measurement period

L_{eq}: Continuous sound level in dB equivalent to the total sound energy over a given period of time

NRO mode: Noise Reduced Operation mode, in which the rotational speed of wind turbines is limited in order to reduce their sound emissions

Participating landowner: a landowner who has signed a written agreement with a Petitioner stating that the sound emission and setback standards established by this rule do not apply to the landowner’s property

Petitioner: a person or company who has filed a petition for a CPG pursuant to 30 V.S.A. § 248 to construct and/or operate a wind generation facility

Plant capacity: pursuant to 30 V.S.A. § 8002, “plant capacity” means the rated electrical nameplate for a wind generation facility

Residence: a permanent structure for human habitation that is occupied by one or more people for a minimum of 90 days each year

SCADA: supervisory control and data acquisition or similar system capable of measuring and recording turbine operation and meteorological data in one-minute time intervals

Wind generation facility: a wind-driven electric generation facility for which a petition for a CPG pursuant to 30 V.S.A. § 248 is submitted to the Commission on or after July 1, 2017

5.703 General Rule

No wind generation facility shall emit sound levels in excess of the following during operation:

- (A) Facilities with a plant capacity up to and including 50 kilowatts. Operation of facilities with a plant capacity up to and including 50 kilowatts shall not result in: (1) sound pressure levels that exceed 42 dBA more than 5% of the time at a distance of 100 feet from the residence of a non-participating landowner; or (2) audible prominent discrete-frequency tones pursuant to the latest revision of ANSI S1.13 Annex A at a distance of 100 feet from the residence of a non-participating landowner.
- (B) Facilities with a plant capacity greater than 50 and up to and including 150 kilowatts. Operation of facilities with a plant capacity greater than 50 kilowatts and up to and including 150 kilowatts shall not result in sound pressure levels in excess of 42 dBA, including any penalty for tonality pursuant to Section 5.710, at a distance of 100 feet from the residence of a non-participating landowner.
- (C) Facilities with a plant capacity greater than 150 kilowatts. Operation of facilities with a plant capacity greater than 150 kW shall not result in sound pressure levels in excess of 42 dBA between the hours of 7 A.M. and 9 P.M. or 39 dBA between the hours of 9 P.M. and 7 A.M., including any penalty for tonality pursuant to Section 5.710, at a distance of 100 feet from the residence of a non-participating landowner.

5.704 Pre-Construction Sound Modeling

- (A) Facilities with a plant capacity up to and including 50 kilowatts. In lieu of submitting sound modeling pursuant to Section 5.704(B), below, petitions to construct and operate a wind generation facility with a plant capacity up to and including 50 kilowatts may instead file the following information with its petition:
 - 1. All certification documents from the Small Wind Certification Council showing the results of acoustic sound testing;
 - 2. The distance to the nearest residence(s) in each cardinal direction, as well as an analysis of the expected sound pressure level at those residences calculated using spherical spreading.
- (B) Facilities with a plant capacity of more than 50 kilowatts. All petitions to construct and operate a wind generation facility with a plant capacity of more than 50 kW shall include a sound model developed for the proposed facility that reports the expected maximum project sound pressure levels, without using NRO mode, modeled out to a distance where such levels are no greater than 30 dBA. Nothing in this subsection prohibits the submission of additional information, including the results of additional sound modeling, that relies on the use of NRO mode. A petitioner must submit the following information with its petition:

1. A map depicting the location of all proposed sound sources associated with the wind generation facility, property boundaries for the proposed facility, and all residences within the 30 dBA contour.
2. A description of the major sound sources, including tonal sound sources, associated with operation and maintenance of the facility. The sound model shall be based on the technical specifications of the turbine model(s) with the highest manufacturer apparent sound power level under consideration for use at the facility.
3. The results of sound modeling pursuant to ISO 9613-2, including a description of the equivalent continuous sound levels expected to be produced by the sound sources at a distance of 100 feet from the residences of non-participating landowners. The description shall include a full-page isopleths map depicting the predicted sound pressure levels expected to be produced by the wind generation facility at a distance of 100 feet from each residence of a non-participating landowner within the 30 dBA isopleth. The predictive model used to generate the equivalent sound levels expected to be produced by the sound sources shall be designed to represent the “predictable worst case scenario.” All model inputs shall be the most realistic and conservative available for each of the items listed below unless otherwise approved by the Commission, and shall include, at a minimum, the following:
 - a. The maximum apparent sound power output of the sound sources pursuant to IEC 61400-11;
 - b. Modeling in accordance with ISO 9613-2, with each turbine modeled as a point source at hub height;
 - c. All turbines operating at maximum apparent sound output;
 - d. Attenuation due to air absorption, with conditions set to 10°C and 70% relative humidity;
 - e. Attenuation due to ground absorption/reflection, based on mixed ground conditions ($G=0.5$) for propagation over land and hard conditions ($G=0.0$) for propagation over water;
 - f. Attenuation due to three-dimensional terrain;
 - g. Receiver height modeled at both 1.5 and 4 meters;
 - h. Attenuation due to meteorological factors such as relative wind speed and direction (wind rose data), temperature/vertical profiles and relative humidity, sky conditions, and atmospheric profiles;

- i. An adjustment to the maximum apparent sound power output of the turbines to account for turbine manufacturer uncertainty, determined in accordance with the most recent version of the IEC 61400-11 standard; and
4. A disclosure of any applicable error in the model;
5. A description of proposed major sound control measures, including their locations and expected acoustical performance;
6. A comparison of the expected sound pressure levels from the proposed wind generation facility with the applicable sound pressure level limits of Section 5.703;
7. A description and map identifying potential compliance testing locations on or near the proposed wind generation facility site. The identified compliance testing locations shall be selected to take advantage of prevailing downwind conditions and shall be able to meet the site selection criteria outlined in Section 5.707. The identified locations shall include those locations that are expected to experience the highest model-predicted equivalent sound levels. The locations shall be free from sources of material sound contamination.
8. Prior to commencing site preparation or construction of a facility, a CPG Holder shall update, supplement, and/or amend the sound modeling to reflect any changes to the sound-producing elements of the facility. An opportunity to review and comment on any change to the sound modeling, and to request a hearing, shall be given to all parties to the 30 V.S.A. § 248 proceeding who had standing on the issue of sound. The Commission shall review and consider all comments received on any change to the sound modeling, and shall convene a hearing on those changes in response to a request for a hearing from a party who had standing on the issue of sound. If a hearing is requested, the CPG Holder may not commence site preparation or construction of the facility until the Commission resolves the issue.

5.705 Post-Construction Sound Monitoring Applicability

- (A) Facilities with a plant capacity up to and including 50 kilowatts. Post-construction sound monitoring may be required by the Commission for a facility in this category if it is determined that exceedances of the applicable sound-level limit are probable or as part of an investigation into one or more complaints or for cause shown.
- (B) Facilities with a plant capacity greater than 50 and up to and including 150 kilowatts. Sound monitoring shall take place in accordance with Section 5.707, below, or pursuant to an alternative monitoring plan adopted in the facility's CPG. In lieu of

verifying compliance with the applicable sound-level limit through sound monitoring, a petitioner may propose to locate a wind generation facility in this category such that every sound-producing element of the facility within the turbine footprint will be set back horizontally no less than ten (10) times the turbine's height, as measured from base to the tip of a blade in the upright, vertical position, from the residence of a non-participating landowner. Notwithstanding, the Commission may require sound monitoring for such a facility if it is determined that exceedances of the applicable sound-level limit are probable, as part of an investigation into one or more complaints, or for cause shown.

- (C) Facilities with a plant capacity greater than 150 kilowatts. Sound monitoring shall take place during the times specified in section 5.711, in accordance with the requirements of this rule and any requirements of the CPG, which shall specify the minimum number of compliance monitoring locations, the radius from the nearest facility turbine in which monitoring locations may be selected, and the time period of monitoring. The monitoring will be used to verify the accuracy of the pre-construction modeling and facility compliance with CPG conditions and the requirements of this rule. In addition to the requirements of this rule and the CPG, the Commission may, at its discretion, require additional monitoring if the results of the initial post-construction sound monitoring or changes to the facility or its operation indicate that exceedances of the sound-level limit are probable, or if it is determined that exceedances of the applicable sound-level limit are probable, as part of an investigation into one or more complaints, or for cause shown.

Nothing in this section shall limit the ability of the Department of Public Service to include a requirement for additional sound monitoring as part of an administrative citation issued pursuant to 30 V.S.A. § 30(h).

5.706 Post-Construction Sound Monitoring General Requirements

- (A) Monitoring by the State. Post-construction sound monitoring shall be conducted under the direct supervision and control of a State of Vermont agency or agencies designated by the Commission. The post-construction sound monitoring shall be paid for by the CPG Holder.
- (B) Monitoring locations. A petition for a CPG for a wind generation facility shall include proposed monitoring locations for post-construction monitoring. The proposed locations shall include residential locations that are expected to experience the highest model-predicted equivalent sound levels and are consistent with the requirements of Section 5.707. The proposed locations shall be free from sources of material sound contamination. Any change in monitoring locations must be approved in advance by the Commission.
- (C) Modification of pre-construction sound modeling. A CPG Holder is required to identify the appropriate inputs and/or assumptions, and modify the pre-construction

sound modeling if the post-construction sound monitoring indicates that there is a reasonable likelihood that the expected highest sound levels at any of the monitoring locations would be equal to or greater than 3 dBA above those modeled, or would result in an exceedance of the sound level standard specified in Section 5.703. All parties to the 30 V.S.A. § 248 proceeding in which a CPG was granted who had standing on the issue of sound shall be given an opportunity to review and comment on any change to the sound modeling, and to request a hearing. The Commission shall review and consider all comments received on any change to the sound modeling, and shall convene a hearing on those changes in response to a request for a hearing from a party who had standing on the issue of sound.

5.707 Post-Construction Sound Monitoring Methodology

- (A) Measurement personnel. Measurements shall be supervised by personnel who are well qualified by training and experience in measurement and evaluation of environmental sound. Certification through the Institute of Noise Control Engineering shall meet the qualification requirements of this section.
- (B) Measurement instrumentation. The sound meter or alternative sound measurement system used shall meet all appropriate industry standards and specifications. Each monitoring site shall include installation of an anemometer and other equipment or sensors capable of gathering and recording weather conditions at the microphone (10-meter-level wind speed, wind direction, temperature, humidity, and precipitation) and be equipped with enhanced-performance windscreens capable of significantly reducing or eliminating wind-induced noise contamination over the microphone. The measurement instrumentation shall meet the following specifications unless otherwise approved by the Commission:
1. The sound level meter or alternative sound level measurement system shall meet the Type 1 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4.
 2. The integrating sound level meter (or measurement system) shall also meet the Type 1 performance requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 61672-1.
 3. The filter for determining the existence of tonal sounds shall meet all the requirements of the American National Standard Specification for Octave-Band and Fractional Octave-Band Analog and Digital Filters, ANSI S1.11 and IEC 61260, Type 3-D performance.
 4. The acoustical calibrator shall be of a type recommended by the manufacturer of the sound level meter and one that meets the requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1.40.

5. Anemometer(s) for surface (10 meter (m)) (32.8 feet) wind speeds shall have a minimum manufacturer specified accuracy of ± 1 mph providing data in 10-second integrations and 10-minute average/maximum values for the evaluation of atmospheric stability.
6. Audio recording devices shall be time stamped (hh:mm:ss), recording the sound signal output from the measurement microphone to be used for identifying events. Audio recording and compliance data collection shall be measured through the same microphone/sound meter and bear the same time stamp.

(C) Equipment calibration.

1. The sound level meter shall have been calibrated to the manufacturer's specification no more than 24 months prior to completion of a measurement campaign, and the microphone's response shall be traceable to the National Institute of Standards and Technology.
2. Field calibrations shall be recorded and documented in compliance monitoring reports.
3. The 10-meter anemometer(s) and vane(s) shall have been calibrated to the manufacturer's specification no more than 24 months prior to completion of a measurement campaign.

(D) Compliance measurement location, configuration, and environment.

1. Compliance measurement locations shall be approved by the Commission during its review of a facility's request for a CPG and shall be representative of the non-participating residences expected to experience the highest model-predicted facility-only sound levels from routine operation of the wind generation facility, subject to permission from the respective property owner(s). Measurement locations shall reasonably be expected to experience downwind conditions from acoustically significant turbines and shall be free from sources of material sound contamination, such as high-traffic roadways, industrial or silvicultural activity, etc. Should a site previously designated as a monitoring location by the Commission no longer be able to meet the requirements of this subsection, the State of Vermont agency implementing the monitoring plan shall propose an alternative monitoring location. An alternative measurement location shall require Commission approval following an opportunity for comment by all parties to the 30 V.S.A. § 248 proceeding in which the CPG was granted who had standing on the issue of sound.
 - a. To the greatest extent possible, compliance measurement locations shall

be at the center of unobstructed areas that are maintained free of vegetation and other structures or material that is greater than 2 feet in height for a 75-foot radius around the sound and audio monitoring equipment.

- b. To the greatest extent possible, meteorological measurement locations shall be at the center of open flat terrain, inclusive of grass and minimum number of obstacles that are greater than 6 feet in height for a 250-foot radius around the anemometer location. Meteorological measurements shall be taken at the monitoring location at or above the height of the audio/acoustic microphone.
- c. Meteorological measurements of wind speed and direction shall be collected using anemometers at a 10-meter height (32.8 feet) above the ground. Results shall be reported, based on 10-second integration intervals, synchronously with turbine nacelle measurements and measurements made at the sound-meter level at one-minute measurement intervals. The wind speed average and maximum for each one-minute interval shall be reported.
- d. The sound microphone shall be positioned at a height of approximately 1.5 meters above the ground, and oriented in accordance with the manufacturer's recommendations.
- e. When possible, measurement locations should be at least 50 feet from any sound source. The proposed locations shall be free from sources of material sound contamination. Any non-facility sources of sound shall be noted in the analysis.

5.708 Determination of Background/Ambient Sound Levels

In order to determine the ambient sound levels at a receptor, turbine shutdowns will be required as part of post-construction sound monitoring. A CPG Holder shall conduct turbine shutdowns in accordance with the requirements of its CPG. The CPG shall specify the minimum number and duration of turbine shutdowns during the post-construction sound monitoring. The timing of turbine shutdowns shall be determined by the State of Vermont agency overseeing post-construction sound monitoring in consultation with the project operator. In the event that turbine shutdowns are technically infeasible, background sound levels may be determined using a primary and shielded secondary sound level meter.

5.709 Post-construction Sound Monitoring Specific Measurements

The following data shall be measured and recorded in one-minute increments:

(A) Acoustic parameters:

1. Overall L_{Aeq} (20-20,000 Hz);

2. Unweighted 1/3rd octave spectra (20-20,000 Hz);
3. Narrowband spectra (20-4,000 Hz, 1-Hz resolution, hanning window).

(B) Meteorological data. All meteorological data as specified in Section 5.712 shall be measured and recorded synchronously with the acoustic parameters listed in Section 5.709(A)1, above.

(C) Turbine operational data including power output, rotor rotational speed, and the meteorological data listed in Section 5.707.

5.710 Post-Construction Sound Monitoring Data Analysis

(A) All recorded data shall be categorized as “Turbine On” or “Ambient,” or shall be excluded.

1. Turbine On data shall meet the following criteria:
 - a. All Contributing Turbines for a specific receptor shall be operational. The minimum power output for each Contributing Turbine shall be specified in the project’s CPG.
 - b. The monitoring location receptor shall be within 45° of the direction between a specific measurement location and the acoustic center of the five nearest wind turbines, or fewer if the wind generation facility does not have five wind turbines.
2. Ambient data shall be categorized as such only when all Contributing Turbines are shut down or generating less than 1% of nameplate capacity.
3. Data meeting any of the following criteria shall be excluded from analysis:
 - a. Data that cannot be categorized as Turbine On or Ambient;
 - b. Periods between 10 minutes prior to and one hour after precipitation at the monitoring location is detected;
 - c. Intervals contaminated by transient ambient sound sources, such as passing cars, barking dogs, etc.;
 - d. Periods when 10-meter wind speed is greater than 5 meters per second.

(B) Additional frequency-based filtering of the data may be performed if unique conditions at the monitoring location(s) justify such action. In such an instance, the designated individual, agency, or company responsible for sound monitoring data

analysis shall notify the Commission of the intent to apply additional filtering to an identified set of data and the basis for such action. An opportunity to review and comment on any proposed additional filtering shall be given to all parties to the 30 V.S.A. § 248 proceeding in which a CPG was granted who had standing on the issue of sound prior to the commencement of any additional filtering.

(C) Filtered sound monitoring data shall be analyzed consistent with the following protocols.

1. Overall sound levels shall be derived using the following methodology:
 - a. Filtered one-minute L_{Aeq} sound levels shall be separated into Turbine On and Ambient datasets.
 - b. Turbine On and Ambient datasets shall be sorted into one-meter-per-second integer wind bins based on the measured average wind speed for each interval at the monitoring location.
 - c. Mean average Turbine On and Ambient sound level shall be computed in each wind bin.
 - d. The average Ambient sound level shall be logarithmically subtracted from the average Turbine On sound level in each wind bin to derive the project-only sound level.
 - e. Wind bin averages shall not be reported if the difference between the Turbine On average sound level and Ambient sound level in a wind bin is less than 3 dBA.
2. Sound monitoring data analysis shall be based on a minimum of 120 filtered one-minute L_{Aeq} data points. In the event that 20 valid data points in each of the six wind bins are not available, wind bin averages may be reported when there are a minimum of 40 one-minute L_{Aeq} sound levels in at least three wind bins. If sufficient valid data are not obtained after ten (10) weeks of monitoring, the State of Vermont agency designated by the Commission shall provide a status update and recommendation for any additional monitoring to the Commission.
3. Tonality shall be determined and applied to the overall sound level using the following methodology.
 - a. Filtered narrowband spectra shall be separated into Turbine On and Ambient datasets.
 - b. Turbine On and Ambient datasets shall be sorted into one-meter-per-second integer wind bins based on the measured average wind speed

for each interval at the monitoring location.

- c. The overall average tonal audibility for each wind bin shall be calculated pursuant to the methodology contained in IEC 61400-11 or the latest revision of the same.
- d. If tonal audibility in any wind bin is greater than 2 dB, a penalty to the project-only sound level in that wind bin shall be applied pursuant to ISO 1996-2, Figure C.1 or the latest revision of the same.

5.711 Compliance Data Collection, Measurement, and Retention Procedures

(A) All operational, sound, audio, and meteorological data collected shall be retained by the State of Vermont agency or agencies designated by the Commission for the life of the project and subject to inspection upon request.

(B) Monitoring and data collection shall occur at a minimum:

1. Once during the first year of facility operation, including sound power testing pursuant to IEC 61400-11 for each turbine;
2. Once during each successive fifth year thereafter until the facility is decommissioned; and
3. In response to a complaint if ordered by the Commission. The Commission in its discretion may require additional sound monitoring or sound power testing for a wind generation facility in response to a complaint if the Commission determines that a complaint raises a reasonable possibility that a wind generation facility is operating in excess of the sound level limits required by this rule. In making its determination, the Commission shall consider:
 - a. The details of the complaint;
 - b. Any response thereto filed by the operator of the wind generation facility; and
 - c. Any response and recommendation by the Department of Public Service after its review of the complaint, the facility operator's response, and any attempts made to resolve the complaint under the complaint response procedure(s) issued by the Vermont Department of Public Service pursuant to Section 5c of Public Act 130 (2016 Vt., Adj. Sess.). As part of any recommendation, the Department may propose a plan for additional sound monitoring or sound power testing of the subject wind generation facility. Any such proposal should incorporate the requirements and standards set forth in subsection (b), below, or set forth an explanation why different requirements and standards are being proposed.

(C) All relevant turbine operational data (SCADA); the date, time, and duration of any NRO or other operational changes that occur during the sound monitoring period; and sound level and meteorological data collected during a compliance measurement period that meets or exceeds the specified wind speed parameters shall be submitted by the State of Vermont agency or agencies designated by the Commission to the Commission for its review and approval. All data shall be submitted to the Commission within 60 days of completion of the monitoring period as part of the post-monitoring report. Audio recordings will only be submitted upon request and may be filtered to exclude private conversations and/or submitted under a confidentiality order.

5.712 Reporting of Compliance Measurement Data

(A) Compliance reports shall be submitted to the Commission within 60 days of the completion of the sound monitoring period. The Commission will make the report publicly available. The report shall include a certification that the required monitoring conditions were present and, at a minimum, the following:

1. A narrative description of the sound from the wind generation facility for the compliance measurement period;
2. The dates, days of the week, and hours of the day when measurements were made;
3. The wind direction and speed, temperature, humidity, and sky condition;
4. Identification of all measurement equipment by make, model, and serial number;
5. All meteorological, sound, windscreen, and audio instrumentation specifications and calibrations;
6. All A-weighted equivalent sound levels for each 1-minute measurement interval;
7. All 1-minute 1/3 octave band unweighted and equivalent continuous sound levels (dB);
8. Should any sound data collection be observed by a trained attendant, a summary of the attendant's notes and observations;
9. All concurrent time-stamped, turbine-operational data including the date, time, and duration of any noise-reduction operation or other interruptions in operations, if present; and
10. All other information determined necessary by the Commission.

(B) In addition to the reporting requirements in subsection (A), above, the following data shall be retained for the life of the project and subject to inspection upon request:

1. Short-period sound level measurements (1 second or less); and
2. All L_{A10} , L_{A50} , and L_{A90} percentile levels;

5.713 Complaint Response Procedures

CPG Holders shall respond to complaints raised by residents located near the wind generation facility in a manner consistent with the complaint response procedure(s) issued by the Vermont Department of Public Service pursuant to Section 5c of Public Act 130 (2016 Vt., Adj. Sess.).



To: Land Use Review Board (LURB)/Vermont Agency of Natural Resources (ANR)

From: Jamey Fidel, Vermont Natural Resources Council

Re: Act 181 Report Wood Products Manufacturing – Draft Version #3

Thank you for the opportunity to comment on the latest version of the Act 181 Wood Products Manufacturing Report. We appreciate the hard work that has gone into producing this report. We also appreciate having the opportunity to participate on the stakeholder group as part of this process. In general, we support the content of Draft Version #3. With this in mind, please accept the following comments.

The survey results on page 7 should explain that the survey was sent to general applicants for Act 250 permits, and not applicants for wood products manufacturing projects. The general results can be helpful to inform Act 250 improvements, but the report should make it clear that the results are from a wide range of project applicants.

We appreciate that the report indicates there was a range of perspectives on updating Rule 19 to allow ancillary permits to be dispositive or secured after the issuance of an Act 250 permit. When reviewing Rule 19, we believe the LURB should ensure that if an ancillary permit is going to provide a rebuttable presumption of compliance with an Act 250 criterion, from a sequencing perspective, it should be examined during the Act 250 permitting process, versus being submitted after. In addition, we have concerns 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 probing or examination of the permit and its impacts. We believe 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.

In regard to exemption logging and forestry on lands below 2,500 feet, we appreciate the desire to clarify that logging and forestry are exempt from Act 250. In addition, parcels that are already under Act 250 jurisdiction should not have to seek an amendment to perform forestry or logging on a parcel. With this in mind, we agree with the LURB that existing permit conditions that minimize or mitigate certain development impacts should remain in place and district commissions should not be prohibited from imposing permit conditions to protect resources from development impacts.

To the degree there is a difference of opinion at the ANR regarding resource protection, we believe best practices need to be developed so that there is consistency in the permitting process. For example, if the Fish and Wildlife Department believes deer wintering yards should not be cleared, and if this is a standard Act 250 permit condition, to the degree that may conflict with a forest management plan, it should not be vacated. The same logic applies to creating buffers to protect aesthetic impacts or maintain riparian functions. If permit conditions are offered to minimize the impacts of a development, district commissions should be allowed to require them. If they conflict with a management plan, an applicant should update the management plan in order to get the benefit of the development that is being permitted. If there is a difference of opinion about what should be considered clearing versus forestry, the ANR and LURB should work together to offer guidance to the district commissions on how to mitigate certain development impacts.

Thank you for the opportunity to comment on the Draft Version #3.



Comments from the Vermont Forest Products Association (VFPA) to the Wood Products Manufacturer Report under Act 181 of 2024 (Submitted June 17, 2025)

The VFPA would like to thank the Land Use Review Board (LURB) and the Vermont Department of Forests, Parks, and Recreation (FPR) for their hard work in developing the DRAFT Wood Products Manufacturers Act 181 Report. The importance of the report to the future of the forest products industry in Vermont cannot be overstated, and it is clear that the LURB and FPR were mindful of this as the DRAFT report was compiled and edited. The VFPA largely supports the recommendations in the DRAFT report, but would like to provide the following comments that our membership believes will further strengthen the report:

Automatic Stonybrook Evaluation Process. The VFPA supports the FPR position that the Stonybrook determination process be applied automatically to applicants. Making the Stonybrook evaluation process automatic creates important equity for all wood product manufacturers under Act 250. Simply providing notice to a wood product manufacturer application that they can *apply* for a Stonybrook determination does not create equity in the process, and some applicants will continue to not receive the benefits afforded by the process.

Forestry and Logging Below 2,500 Feet. The VFPA respectfully disagrees that recommending an extension of benefits to logging and forestry that are currently enjoyed by farming is “beyond the scope of this wood products manufacturers report.” (Draft #3, pg. 11) This report is meant to look at the *entire* Act 250 permitting process to better support wood products manufacturers and their role in the forest economy. Addressing the inequity that currently exists in Vermont under Act 250, with our two major working lands activities – farming and forestry/logging – is vitally important and clearly speaks to the existing permitting process. Both “forestry” and “logging” operations are terms of art in law. The report needs to better recognize this fact. Forestry and logging operations cannot and should not be confused with tree removal, clearing, or cutting that is part of commercial, residential, or industrial development projects. The VFPA supports stronger language in the report to explicitly exempt forestry and logging operations under 2,500 feet.

Pre-Purchase Site Evaluation. The VFPA supports language in the report that highlights 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 materially help inform site selection by the private developer with early identification of issues and an opportunity for reduced regulatory complexity.” (Draft #3, pg. 15) The VFPA supports including this language in the WPM Fact Sheet and Supplemental Guidance, and in training and outreach.

Action – Not “Review” – on Updates to Act 250. In several areas of the report, particularly in identified Items numbers 4, 5, 6, and 7, language to “review and pursue” various updates to Act 250 is identified. (Draft #3, pg. 10) The VFPA supports the deletion of the word “review” from these recommendations, and focus should be on pursuing these important changes. Wood product manufacturer operation upgrades that do not increase the footprint of the operation or increase noise should not trigger a permit or permit amendment. These components of Act 250 (Rules 19 and 34) are closely related and vitally important investments in upgrades at wood products manufacturing facilities that keep them regionally and globally competitive. Further, the VFPA supports Item # 7 be amended to “pursue” rather than “evaluate” the use of Rue 16(D). (Draft #3, pg. 10)

Thank you for your time and careful consideration of this feedback.

Respectfully submitted,

Gwynn Zakov, Lobbyist, VFPA

Comments on Act 181 Wood Products Manufacturer Report Draft #2

June 10, 2025

Submitted by the Department of Forests, Parks and Recreation - Division of Forests

1. Suggested Language Change to Recommendation #9

Current Language

Explore extending 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.

Suggested Revised Language

Explore extending exemptions to forestry and logging like those that are available for farming under elevation 2,500 feet, , provided that existing permit conditions that restrict tree clearing or tree cutting as part of commercial, residential or industrial development projects, and that do not apply to forestry operations, are not invalidated.

Rationale

- Forestry operations is a term defined in title 10 and is focused on “management of forests” and therefore is not applicable to a developed plot of land as per accepted federal definition of forests¹.
 - <https://legislature.vermont.gov/statutes/section/10/083/02602>)
 - (6) “Forestry operation” means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.
- Forestry in Vermont is not synonymous with land conversion or clearing and so Act 250 permit conditions for permitted projects limiting tree cutting / removal should not apply to forestry operations (but can apply to land clearing / conversion).
- Forestry Operations are governed by the AMPs, Heavy Cut Rule, Use Value Appraisal Program requirements where applicable, and other ANR regulations, and are thought by many to be exempt from Act 250.
- However, Act 250 permit conditions can impede forestry operations in Vermont. Here is just one example:
 - Due to an existing Act 250 permit, the landowner below is required to go through Act 250 for forest management below 2500'. The level of review on this parcel feels like it is particularly misplaced not only because the land is enrolled in the UVA program, but it is also part of the Forest Legacy Program with a conservation easement, meaning that the

¹ FIA Definition of Forest Land

landowner must comply with a host of management requirements to promote conservation and environmental sustainability. The entire parcel is below 2500 feet in elevation.

- The Act 250 jurisdiction seems to be from a subdivision of the 1000+ acres into 5 lots the 1990s. Since then, the landowner has had to get 4 permit amendments for forest management (see table below). This case shows that while Act 250 jurisdiction over forestry operations doesn't necessarily prevent the activity from occurring, it can create significant barriers and additional costs for a landowner trying to practice good forestry.
- For this reason, FPR is seeking the change described in recommendation #9 and parity with the agriculture sector exemptions for Act 250 purposes.
 - The court case I mentioned in my verbal comments on 6/9/25 affecting the agriculture sector was *RE: EUSTANCE ACT 250 JURISDICTIONAL OPINION (# 2-231) (Robert and Lourdes Eustance (2009))*.
 - My understanding is that this case led directly or indirectly to the exemptions for farming in 10 V.S.A. §6001(3)(E) and 10 V.S.A. §6081(s).
 - FPR proposes a statutory change to formally clarify the exemption of forestry and logging from the definition of development on land below 2500', similar to these agricultural sector exemptions.

6 results found matching your search criteria. Click [View] for details.

	Project Number	District	Project Name	Application Type	Name	Town	Description	Hearing Date	Status Date	Status
View	5L1209-6	05		Minor	(BULLARD LUMBER COMPANY)	Eden	a project generally described as a prescribed, extended, irregular shelterwood harvest of the 109.3 acres in Area 9		08-04-2021	Permit
View	5L1209-5	05		Minor	(BULLARD LUMBER COMPANY)	Eden	change from an improvement/salvage cut to a clearcut for long term health concerns in the forest management plan for area 7		03-24-2021	Permit
View	5L1209-3	05		Minor	(BULLARD LUMBER COMPANY)	Eden	SUBDIV TWO 10.1-ACRE LOTS FOR SINGLE-FAM RES CONSTR FROM A TRACT OF LAND APPRX 1000 ACRES		02-20-2001	Permit
View	5L1209-2	05		Minor	(BULLARD LUMBER COMPANY)	Eden	TO HARVEST TIMBER ON LOT F-2 UNDER A TIMBER HARVEST AND MANAGEMENT PLAN. LOT F-2 IS 92 ACRES		07-12-2000	Permit
View	5L1209-1	05	NONE	Minor	(BULLARD LUMBER COMPANY)	Eden	HARVEST TIMBER ON LOT F-2 UNDER A MANAGEMENT PLAN		05-21-1997	Permit
View	5L1209	05		Minor	(BULLARD LUMBER COMPANY)	Eden	SELL 8-ACRE & 92-ACRE LOT & 3 OTHER LOTS (IE SUBDIV INTO 5 LOTS)		10-14-1994	Permit

2. FPR Observations on Minor Permit Language in Draft #2

In edits made on Draft Report #2 during the LURB meeting of Thursday June 5, LURB seemed to conclude that the minor permit process “is working.” FPR analyzed the distribution of minor permits, major permits, and AAs before and after the 2018 change in the minor permit to base the permitting threshold on production volume. Since 2018, more than 28% of the wood products manufacturer applications have been processed as major applications compared to about 25% before 2018. It is useful to compare forest sector permits with all other sectors, which FPR did and found that from 2020-2024, less than 5% of all Act 250 permit applications overall were processed as major applications, showing a much higher percentage of major permits in the forest products sector as compared to other sectors. The sample size

of total permits in the forest sector is small overall, suggesting that it is difficult to use this data to conclude that the minor process is working well or is not working well. However, the lack of a substantial change in the percentage of minor permits issued to forest products sector applicants when comparing data before and after the 2018 change suggests that the minor permit change may not have led to the intended outcomes, and that it may be premature to describe this process as “working” in response to the legislative mandate.

Notes for Land Use Review Board Meeting on Act 181 Wood Products Manufacturer Report - June 2, 2025
Submitted by the Department of Forests, Parks and Recreation - Division of Forests

Background: Act 181 of 2023 directed the Land Use Review Board, in consultation with the Department of Forests, Parks and Recreation, to 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. Act 181 tasked the stakeholder group with examining the Act 250 permitting process and identifying how the minor permit process established in 2018 has been working and whether there are shortcomings or challenges. Additionally, the stakeholder group may look at permitting holistically to understand the role of permits from the Agency of Natural Resources (ANR), municipal permits, and Act 250 permits and develop recommendations to find efficiencies in the entire process or recommend an alternative permitting process for wood products manufacturers.

CRITICAL ISSUES & FPR RECOMMENDATIONS

Issue #1: The recommendations are well-meaning and could be useful to increase the support that LURB and ANR provide to wood products manufacturers seeking permits. However, they lean heavily toward holding applicants' hands rather than making any substantive changes to ease or remove barriers. The two priority changes to the report that FPR is seeking are: 1) the uniform and expedited use of Stonybrook, and 2) the explicit exemption of forestry and logging under 2500'.

- **Recommendations:**
 - FPR seeks two priority changes to the report:
 1. Stonybrook: Adopt a uniform and expedited use of Stonybrook. FPR suspects that there may just be a language issue to resolve regarding this recommendation. "Some level of review" would still be conducted, meaning the process would still need a map and analysis. The issue seems to be a lack of clarity on process rather than position. It is the position of FPR that the Stonybrook determination *process* be applied automatically, rather than simply offered as a path to the applicant. The process would inform an eventual determination of applicability.
 2. Explicit exemption for forestry and logging under 2500': This draft moves in the right direction regarding benefits mirrored to farming exemptions. However, FPR believes that an explicit exemption for forestry and logging under 2500' is a necessary reform and outcome of the stakeholder input process. Act 250 should not govern the practice of forestry. "Land clearing" or "tree cutting" is not forestry. See also Issue #4 below.

Issue #2: The draft report is written in a technical and legalistic manner, making it difficult to read and understand.

- **Recommendations:**
 - Organization: Reorganize the report to place the most important information at the beginning. Remove unnecessary information. In this report, the readers (legislators and stakeholders) will be most interested in the key questions posed in Act 181:
 - How is the minor permit process working? Are there shortcomings or challenges?
 - What are the recommendations to find efficiencies in the entire permitting process? Is there a recommended alternative permitting process for wood products manufacturers?
 - Structure: A suggested structure for the report that, from FPR's perspective, would shorten the body of the report and make it easier for the reader to understand our key points is:
 - Executive Summary w/ relevant statute cited and a detailed summary of recommendations
 - Situation – Problem Statement and any relevant background
 - Methodology Overview (key process steps) with details in an appendix
 - Recommendations to address our statutory charge (pull any actual recommendations from different sections of the report and summarize, move ideas that are not endorsed to appendix)
 - Conclusion & Recommended Next Steps (including any requested statutory changes)

- **Readability:** Use plain, accessible language. Most states and government agencies recommend writing documents for an 8th or 9th grade reading level. Improve the readability of the report by using short, simple words and sentences. Avoid legal and technical jargon.

Issue #3: The draft report does not appear to answer the key questions in Act 181. Instead, the report focuses on the purpose of convening the stakeholder group: to report on how to address the Act 250 permitting process to better support wood products manufacturers. Regarding the minor permit process, the second paragraph on page 10 concludes that “the minor process...is working.” However, this does not address *how* the minor permit process has been working or if there are any shortcomings or challenges. The draft report does not recommend ways to find efficiencies in the entire permitting process. It would be understandable to conclude from this report that the Board prefers to offer additional handholding for applicants rather than pursuing substantive change that addresses the concerns and challenges raised by the sector and other permit holders. However, such an approach may not be consistent with the “Legislative Intent” that led to this report, and the reports seems to fall short of the systemic insight and reform the Legislature appeared to be seeking when it called for the report.

- **Recommendations:**

- The Board should acknowledge that the report focuses on how to better support wood products manufacturers rather than addressing some of the specific questions posed in Act 181. While there are several practical reasons that may justify the Board’s focus, without this information, readers are left to draw their own conclusions.
- Because Act 181 requested recommendations to find efficiencies in the entire permitting process, the report should describe why these recommendations were not a result of the report development and stakeholder input process.

Issue #4: The report continues to use the terms “tree clearing” and “tree cutting” even though FPR has repeatedly corrected the use of these terms, emphasizing that the subject of FPR’s comments and recommendations is forestry and logging. It is concerning to FPR that this remains an ongoing issue. The fact that this issue keeps coming up shows the importance of this recommendation.

- **Recommendation:** Revise Section V, point 5, Item (iii) to accurately describe the issue raised by FPR and its proposed recommendation regarding conditions on forestry and logging. Remove all references and arguments against forestry and logging that refer to tree clearing and tree cutting. FPR has previously offered alternative language for this item, and FPR is willing to assist the authors in developing appropriate language that addresses this issue.
 - For example, the current draft of the report has this sentence:
 - *In addition, where land is subject to an existing Act 250 permit, logging and forestry remain exempt where located below 2500 feet and may proceed as long as such tree removal doesn’t conflict with an Act 250 obligation or Act 250 permit condition. For example, a landowner may not conduct tree removal operations within a no-disturb stream buffer area in effect via an Act 250 permit.*
 - FPR suggests rewriting it as follows to avoid conflating logging and forestry with tree removal, which is not the subject of this recommendation.
 - *In addition, when land is subject to an existing Act 250 permit, logging and forestry remain exempt when located below 2500 feet and may proceed as long as such operations don’t conflict with an Act 250 obligation or Act 250 permit condition.*

OTHER ISSUES, COMMENTS, AND RECOMMENDATIONS

Section / Topic	Comments
Report Length & Structure	Very lengthy report (19 pages of primary text and 112 pages of “exhibits”). If the expectation is that it will be read, the report should be shortened significantly.

	Text frequently directs readers to the exhibits for context and content. Exhibits and primary text both provide original source material excerpts rather than summarizing the key content for the reader.
Language & Terminology	<p>The report assumes significant prior knowledge of Act 250. References to Act 250 Rules, policies, and procedures are made without adequate explanation.</p> <p>The report is currently written at a Grade 14 reading level.</p>
Conclusion	It is not clear what, if any, recommendations are being made to find efficiencies in the entire permitting process. The opportunities to better support the sector lack key content like timing, purpose, and responsible parties.
Survey Results (Section III A)	<p>The listing of primary Act 250 challenges reported in the survey responses is misleading. In order, starting with the most frequently cited challenge, they are:</p> <ol style="list-style-type: none"> 1. Process: Time/Timeline (n=12) 2. Application: Completeness Requirements (n=7) (tie) Cost: Overall (tie) Process: Reasonableness for scope/scale of project 3. Consistency / Predictability: Requirements (n=6) 4. Process: Complexity (n=5) (tie) Staff: Responsiveness/Availability
Act 250 File Review Results (Section III B)	<p>The two different file reviews and analyses should be more clearly explained. As written, this section does not state that the summary highlights presented are from the Board's analysis only. Suggest including only the highlights relevant to the specific recommendations being made and include the rest in an appendix. Additional clarification questions:</p> <ul style="list-style-type: none"> • What is meant by \pm? • The number of new project and permit amendment applications does not add up to the total number of applications reviewed. Why? • Is the project located in an industrial park the same one that was near a town or village center or is it part of the projects categorized as occurring in more rural and mixed-use settings? • Can an application be abandoned? The Act 250 status of abandoned is defined as "A permit was issued, but the permittee did not commence construction and make substantial progress. The permit was voided through an abandonment proceeding and is no longer in effect." • In the 10th bullet point, what do the numbers in parenthesis mean? • In the second to last bullet point, does "at issue" mean that someone requested party status under the listed criteria? If so, did they receive party status for them? Did all the criteria at issue result in conditions to the permit?
Outreach, Stakeholder Group Meetings (Section III C)	<p>Anything in this section that is a recommendation should be included in the recommendations section. Everything else should be in an appendix.</p> <p>The second bullet point on page 9 misrepresents the suggested recommendation. The proposed change is to limit jurisdiction on tracts with managed forestland to only the area(s) of the tract that supports the permitted development.</p>
Ideas Examined and Recommended by the Board (Section V)	<p>There are several items in this section that appear to not actually be recommended by the Board. Any items that are not being supported by the Board should be removed from this section.</p> <p>Item 3. Clarify differences between ANR Planning Office "concierge service" suggestion made by ANR Staff with the point on page 14 (point 6) about funding for an ombudsperson. How would these two additional support elements interact? If the</p>

	<p>ombudsperson was funded (unlikely in the current funding environment), would the ANR Concierge Service still be necessary?</p> <p>Item 4A. Would this update of Rule 19 occur before or after the fact sheet notifying applicants of their options under Rule 19 is developed?</p> <p>Item 4D. Concerns were raised that, for one wood products manufacturer, the application of this rule led to mediation which created one of the most complex and difficult to enforce permit series in Act 250.</p> <p>Item 5. FPR needs to better understand the language “...not encompass a ‘blanket’ exemption...existing permit conditions...and existing permit decisions.” How is a permit decision different from the permit condition? Perhaps this comes down to being explicit about word choice. Permit conditions relating to silvicultural activities (including those which are habitat related) and not associated with manufacturing infrastructure (e.g., visual screening, etc.) are misguided. These permit conditions do not “mitigate the development impact that would otherwise occur” as stated on page 13. Again, much of this may be a language issue.</p> <p>Item 7. Changes around log and/or pulp concentration yards are steps in the right direction, and FPR strongly supports this recommendation, but suggests that we explicitly state that any changes will still allow the existing and necessary functions to take place at these sites (e.g., trimming logs). Additional clarification questions:</p> <ul style="list-style-type: none"> • Several options before the Board rely on the proposed industrial noise standard which in Section VI is listed as not being advanced. How would this work? • What does the addition of the word “<i>enhanced</i>” do and how is this defined? • Tier 1 and Tier 3 language is misplaced. For what reason would log yards be implicitly banned? Also, Tier 3 designations are still so nebulous it’s too premature to make this statement. Conversations at the Stakeholder meetings having included such recommendations as all “sandy/gravel soils should be considered for Tier 3 designation” for consideration, and there’s no clear understanding of the process to determine recommendations here. • Why 300 ft. language from a School or Residence? What is the rationale for this? Why is there an affirmative action to waive rather than an affirmative action to raise objections?
Other Ideas Examined (Section VI)	<p>This section has a lot of information for ideas that are not being supported by the Board. Recommend condensing this section significantly.</p> <p>Item C. FPR provided substantive comments on this item previously, but did not eliminate it wholesale. We do not understand how the authors concluded that it could not be considered due to a lack of support from FPR. During stakeholder group discussions, FPR did not support being responsible for a wood products industry noise standard and voiced concern about how such standards might be developed. FPR asked for clarification on the source material for the existing noise standards that were referred to in discussions and looks forward to reviewing that information when it is available.</p> <p>Item G. There is a typo for FPR on page 18.</p> <p>Item I. This misrepresents FPR’s position on its availability to identify preapproved development sites for new manufacturing facilities.</p>