



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, VT 05633-3201

NATURAL RESOURCES BOARD MEETING TUESDAY, July 28, 2020 11:00 am

Board Members Present by Phone:

Diane B. Snelling, Chair, Martha (Marty) Illick, Vice Chair, Brad Aldrich, Member, & Steve Larrabee, Member

ABSENT

Don Turner, Member

Staff by Microsoft Teams:

Gregory Boulbol, General Counsel; Kimberley Lashua, Business Director; Evan Meenan, Associate General Counsel; Katie Emerson, Legal Technician; Aaron Brondyke, State Coordinator

I. 11:00 a.m. Welcome and Introductions

The Vermont Natural Resources Board convened at 11:00 a.m. via Microsoft Teams, Chair Diane B. Snelling presiding.

II. 11:02 a.m. Opportunity for public comment on agenda and non-agenda items

Chair Snelling asked for any public comment on agenda or non-agenda items. No members of the public were present.

III. 11:05 a.m. Discussion regarding Criterion 9 (F) Procedure: 10 V.S.A. § 6086(a)(9)(F).

NRB General Council Greg Boulbol provided an overview of the proposed new procedure for criterion 9(F). The new process was necessary to align with the Board's decision regarding the recently revised base code (Commercial Building Energy Standards)(CBES). It was determined that the new base code is more stringent than the previous Commercial Stretch Guidelines, so the Board made the decision not to update the Commercial Stretch Guidelines

The only substantive changes from the last draft presented to the Board concern the RBES (Residential Building Energy Standards). The new draft resolves a longstanding conflict between Title 30, Section 51 and case law regarding vested rights.

When an Act 250 application is filed, the applicant's rights are vested at the time the application is deemed complete. However, Title 30 provides an exception for the RBES. If the RBES change during the time the application is being reviewed, applicants can decide whether they want to use the RBES existing at the time that the application was deemed complete, or the newly amended guidelines. However, if construction has not started when the new RBES go into effect, then Title 30 requires compliance with the new RBES.



There was a brief discussion regarding if an applicant would need an amendment to comply with updated RBES in the event that the RBES changed after an application was submitted but before construction started.

Mr. Boulbol explained that if the permit has been issued, but construction has not started, then an amendment might be required. In such a situation, the best course of action would be for the applicant to request a Jurisdictional Opinion from the District Coordinator to determine whether the change required to meet the guidelines would constitute a material change to the permitted project. Currently, the Act 250 Rules state that any material change to a permitted project requires a permit amendment.

Mr. Brad Aldrich made a motion to approve the revised 9(F) Criterion Procedure Statement, and Mr. Steve Larrabee seconded the motion. The motion passed unanimously.

Mr. Boulbol stated that the Procedure will be updated with today's date and posted on the NRB website.

IV. Adjourn

At 11:17a.m., Ms. Marty Illick made a motion to adjourn, seconded by Steve Larrabee, and unanimously approved by the Board.