

Bulletin

PUBLIC HEARING ACT 250 STUDY COMMITTEE

7:00 pm, Wednesday October 6, 1999

Room 11 Statehouse - Montpelier

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Vermont
Natural
Resources
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Inc.

Once again, Act 250 is under the political microscope. If you're concerned about Vermont's landmark land use and development law, you might want to keep an eye on a special committee looking at the law this fall.

Late in the session the Vermont House adopted a resolution setting up an Act 250 study committee. The committee is charged with conducting a comprehensive review of Act 250 looking at its governance, implementation, its effects on the environment, people, and economic development of the state.

The House Act 250 Study Committee has eight House members appointed by the Speaker of the House so that no party has a majority. Representative William Johnson Chairs the Committee. He is joined by Reps. Mary Sullivan (Vice Chair), Patricia Smith (Clerk), Phil Angell, Thomas Koch, Albert Perry, Michael Quaid and David Zuckerman.

The first meeting was held on July 21st and featured presentations by former Chair of the Environmental Board, Art Gibb and Vermont Law School Professor, Richard Brooks.

On September 1st, the Committee heard from attorneys who have had experience with Act 250: Stephanie Kaplan, former General Counsel for the Environmental Board; John Marshall, former Chair of a District Commission; John Ponsetto, representing Associated

Industries of Vermont; and Andy Raubvogel, ANR General Counsel. Also, Marcy Harding, Chair of the Environmental Board; Mike Zahner, the Board's Executive Director; and several District Commission Coordinators presented testimony.

It appears that the Committee will focus on at least the following issues:

- Predictability of permit process
- "On the record" hearings and appeals
- Act 250 Criteria
- ANR permit processing times/
need for personnel and resources
- Cumulative impacts of development
- Planning
- Party Status
- Expanded jurisdiction of Board
- Political influences/
appointment procedure
- Junkyards

Future meetings will be in the Statehouse Room 11:

- Wed. Oct. 6 - 10:00 am
- Wed. Oct. 6 - 7:00 pm
(public hearing)
- Wed. Oct. 20 - 10:00 am
- Wed. Nov. 3 - 10:00 am
- Wed. Nov. 17 - 10:00 am
- Wed. Dec. 1 - 10:00 am

The Committee is staffed by the Legislative Council and the Joint Fiscal Office and is charged with submitting a report with draft legislation to the General Assembly by January 15, 2000.

Contact Steve Holmes at VNRC for more information.

THE VALUABLE ROLE OF CITIZENS IN ACT 250

VNRC's new report documents the value of direct citizen involvement in the Act 250 process. Call Joyce at our Montpelier office to order your copy.





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The Vermont Natural Resources Council, Inc., is a nonprofit environmental organization founded in 1963 to protect Vermont's natural resources and environment through research, education, and advocacy.

VNRC is the Vermont affiliate of the National Wildlife Federation.

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For an individual membership, send \$35.00 to VNRC.

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ENVIRONMENTAL BOARD ACT 250 RULEMAKING

A public hearing on September 22 concerning Act 250 rulemaking is taking place as we go to press. The deadline for written public comment is on Friday, October 1, 1999. VNRC is concerned about the proposed changes.

The Environmental Board has filed proposed revisions to Act 250 rules with the Secretary of State. Many of the new rules are minor "housekeeping" changes. However, a few substantive changes deserve close scrutiny:

- **Party Status Will Be Affected**

The rules propose to change who can participate in Act 250 hearings and who can appeal district commission decisions to the Environmental Board.

Rules 2(S) dealing with the term "interest" (eg. interested

in or affected by the outcome of an Act 250 hearing), and Rule 14(B) are being amended in tandem.

Rule 14(B)(1), "interested" parties by permission (eg. you are permitted to participate in an Act 250 hearing) now includes "individuals or groups" and will be revised to include "individuals, groups, or organizations."

This rule is to be read in conjunction with Rule 2(S). The term "interest" is being defined as "any personal, local, regional, statewide, or property interest under the criteria of the act, with respect to a request for permissive party status under Rule 14(B), which may be affected by the outcome of the proceeding."

Rule 14 (B)2 - Materially assisting parties will be eliminated. However, non-parties will be allowed to participate in a proceeding "if it is continually demonstrated that such participation: will materially assist the board or commission by providing testimony, cross-examining witnesses, or offering argument or other

evidence ...; is not duplicative of statutory or permitted party participation; and will not unduly delay the proceeding."

- **State and Local Permits To Be Given More Weight**

Rules 19(F) and (I) deal with the presumption of compliance created by various state agency and municipal permits in Act 250 hearings. The current standard for rebutting a state or local permit is by a "preponderance of the evidence". The new standard would require "clear and convincing evidence" to rebut a permit, presumably adding greater weight to the presumption and making it more difficult for a successful rebuttal to occur.

VNRC will be presenting testimony to the Board, and we encourage you to voice your opinions. If you would like more information, please contact Steve Holmes at VNRC.

