



Administrative Amendment Guidance

State of Vermont

Natural Resources Board

1. Purpose

The Natural Resources Board adopts this document to provide guidance to applicants regarding the review of land use permit amendment applications under Act 250 Rule 34(D).

This Guidance supersedes all previous guidance regarding Rule 34(D). In the event of a conflict between the guidance in this document and any statute or rule, the statute or rule shall control.

2. Applicable Rule

Act 250 Rule 34(D) states:

(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

This guidance concerns appropriate circumstances for the review of land use permit applications under this rule.

3. Purpose and Usage

Administrative amendments can be issued for very minor changes to Act 250-permitted projects that have no likelihood of impact under the Act 250 Criteria. As the Rule suggests, administrative amendments are often thought of as amendments for “record-keeping” purposes, such as for documenting a minor change to a previously issued permit from another agency, such as a stormwater or wastewater permit.

An administrative amendment can also be used to issue a short-term extension of a permitted construction completion deadline if certain threshold requirements are met. Those threshold requirements are outlined in 10 V.S.A. § 6091(d) and Rule 32(B)(1).

In general, an administrative amendment should only be used to permit changes to project construction that do not involve the enlargement or reconfiguration of the footprint of any component of the project and which raise no likelihood of impacts under the Act 250 criteria.

4. Authority and Procedure

Ultimately, district commissioners hold the authority to determine whether an application is suitable for review under Rule 34(D). Applicants should check with their district coordinator prior to filling out an administrative amendment application, to ensure that they are using the appropriate application form.

Adopted and Approved by the Natural Resources Board: May 11, 2021.

Effective: May 11, 2021