

Natural Resources Board
Act 250 Necessary Updates
Steering Committee Meeting
October 12th 1:00 – 4:00ish pm

Legislation is currently being drafted by legislators.

Updated proposal on Jurisdiction – Tier 1A (large municipalities/similar to downtown designations – complete exemptions); Tier 1B (municipalities with strong zoning/subdivision regs, administration, and capacity for growth); Tier 2 (rural undeveloped land); Tier 3 (sensitive natural resource areas)

Updated proposal – change Rule 19; change rebuttable to dispositive.

Designation study looking into functional equivalency of local regulations to act 250; concept that municipality that meets that could be completely exempt (including in tier 2 and 3 areas). Would need to check-in post-designation.

Tier 1A

- Municipality would propose Tier 1A status to the RPC and then the RPC would propose it to the state board if they concur. Should be a joint presentation to the state board. If the municipality really wants it but RPC doesn't, could they appeal it to the state body? Should be consistent with the regional plan.
- Public hearing process at state board, whether it's municipality, RPC, or private landowner need a place to bring issues.
- Rules of civil procedure say you can go to superior court if there is no other appeal process defined.
- Alternatively, municipality would propose, RPC approve, then with RPC-approved plan the *municipality* would take to State Board
- RPC already has a map of these areas in the land use map; municipality picks that up, brings it back to RPC, they concur, then go to state board.
 - o Towns are involved in RPC map making; wouldn't see towns coming in with something wildly different.
- Once lines are drawn, doesn't mean they are set there forever, there is an opportunity to look at again and potentially change tiers.
- Currently there is an expiration date for certain designations, so keep expirations as a requirement. 8 year cycle
- General agreement!

Tier 1B

- Should it be 1A or 1B? Or just have tier 1? 1A includes commercial, 1B does not.

- 1B communities typically smaller, more limited infrastructure capacity. Not perceived as being population growth areas.
- Objective criteria for 1A vs. 1B or you know it when you see it?
 - o Kind of know it when you see it.
 - o Could end up with dozens of communities with this designation.
- Capacity of infrastructure and capacity of management
- Retail commercial development in tier 2? areas would trigger.
 - o If go with exemption in downtown cap it at 1acre. If outside that even in 10acre town, cap development to 1acre
- If have 10 acre threshold, then what are we worried about with commercial development?
- Zoning/subdivision regulations as a criterion; recommend review of 4302
- 6-lot trigger; if developing in tier 1a/tier 1b those lots don't count in other areas, don't sum them up.
- Not all agree if units in 1B count into tier 2.
- Commercial retail exemption under 1 acre

20 year area for population growth; substantial and backed up by future land use map.

Tier 2

- How would this change the situation for towns with zoning, aka 10 acre town; is this lowering the threshold for act 250?
 - o Within the immediate area
 - o Cumulative threshold
- Need to come up with real world examples of what these look like
- Keep the Status quo (10-6) with a road rule [maybe] (keep it simple)
 - o Keeps nexus of 1 acre and 10 acre towns
- Mixing the incentives for growth with this
- Leave the ½ mile out of it or keep it in tier 1.

Road Rule

- Only applies in tier 2.
- The original proposal was 2,000 ft combo road and driveway.
 - o Some misgivings about this; attorney focus group hated this, a lot of them litigated against this.
 - o Concerns raised about shorter roads.
- The original rule was 800 ft of road and then really long driveways off that.
- So the new proposal, 2000 ft would count roads and driveways.
- List of criteria/sub criteria that could be omitted from jurisdiction under road rule trigger.
- Does it only apply to residential roads?
- Consensus about proposing the road rule and letting the details be sorted in legislature.
- Does it only apply in forested land?

Tier 3

- Specific natural resource areas worthy of protection; doesn't mean no build, but you go through act 250 review.
- State has a responsibility to delineate and designate these areas; RPCS and towns don't have the data and knowledge.
- RPC would propose these areas (takes the lead in consultation with municipality) would be part of the future land use mapping (similar to designating tier 1A?)
- Some natural resources will cut across town lines, so RPCs need to be involved.

Reducing Redundancy

- Rebuttable presumption under rule 19; can we move to those permits being dispositive?
 - o Criteria don't all align.
- Permit covers what it covers; couldn't challenge because its dispositive.