

Working Lands Focus Group Discussion Takeaways August 17, 2023

Overall takeaways

- The focus group sees having successful working lands enterprises as critical to maintaining the Vermont landscape, and fully aligned with the goals of Act 250 – i.e. “conserve the forest and they will conserve the forest.” The reality is that Act 250 makes it harder for these enterprises to survive and grow. One issue is the permitting required to expand or update facilities where there is Act 250 jurisdiction, which stifles innovation. Another is the broader issue that Act 250 inhibits growth of middle-of-the-supply-chain in-state food and forest processing capacity that is central to an efficient working lands economy. Those industries and jobs get outsourced to other states and the whole sector in VT is costlier and less competitive than it needs to be as a result.
- After Covid many farm enterprises wanted to internalize operations on their farm to increase resilience. Act 250 stifled this kind of innovation.

Governance

- Process takes very long —the key delay is getting an application deemed complete, which can take years.
- Very different for a small or medium-sized working lands enterprise to go through the Act 250 process compared to a big developer or other large project. The application is extremely complex. Time and costs make it impossible and people avoid Act 250 at all costs. The result is to overburden/limit the growth potential of SMEs.
- A chart or checklist for when an application is complete, or is likely to get approved, would help with predictability.
- There is an issue of fairness in costs of opposing vs. going through Act 250. The cost for opposing a permit should be higher, or they should have to pay application or litigation costs if they lose.
- There should be a different tier of application responsibilities for certain types or sizes of businesses.
- There should be more wraparound advising services to help people navigate the permitting process and/or provide guidance on how to do things in a way that would not require a permit.
- There should be ways for working lands businesses to engage with the NRB/District Coordinators/Act 250 that is not about getting a full permit. For example, sharing your plans and having a consultative conversation to learn about how your plans might intersect with Act 250 or other regulations.
 - This could help businesses be ready if/when Act 250 applies.
 - Maybe businesses could have a more streamlined process for going through Act 250 if they participate.
 - The goal is to get people used to engaging in the regulatory process before it’s an issue, so it is less frightening/burdensome.

- It could also help businesses prepare the kinds of studies and data they'd need to access other funding that requires that kind of analysis.
- An analogy could be VHCB's [REDI](#) program.
- This would require significantly more capacity at NRB if it's housed there.

Jurisdiction

- Working lands enterprises need to be treated differently from other businesses under Act 250. They are categorically different from a Target, Walmart, or massive housing development.
- Jurisdiction is arbitrary and unfair for working lands businesses. It is not clear who needs a permit, and in practice one may only be required if someone brings an action.
- Working lands enterprises should be exempt from Act 250, full stop.
- Forest management should be exempt from Act 250, especially if enrolled in Current Use/UVA and using AMPs. Act 250 makes it impossible or large forest tracts to develop and creates permitting redundancies.
 - The 2500-foot threshold is extremely burdensome for forest managers.
 - If this were lowered to 2000 feet without an exemption it would be catastrophic.
- Jurisdiction for working lands enterprises should be based on the acreage of the project, or the acreage used for the business/facility, not the overall acreage of the parcel. Because of the nature of their work, these businesses own large parcels, but the size of the project or facility better reflect the actual impact on the environment.
 - This same approach should not be applied to non-working lands, where a 10-acre development at the center of a parcel could impact much more than just those 10 acres.
- The issue of jurisdiction not going away and running with the land is an issue and increases the fear of triggering Act 250. It should be easier to remove it from the title if permit is closed out and complete.
- An exemption for working lands would require clear criteria and definitions. There has been significant work on this in defining accessory on farm businesses.
- If there is jurisdiction over intact forests, there would need to be an exemption or forestry businesses.
- In general, we should suggest exemptions based on a combination of the size and the activity, e.g., for accessory on farm businesses it's for any AOFB activity that disturbs less than 1 acre.