

February 15, 2021

**Natural Resources Board / Act 250
Annual Report
Calendar Year 2020**



10 Baldwin Street
Montpelier, Vermont 05633-3201
Telephone: (802) 828-3309

nrb.vermont.gov

Message from the Chair



NATURAL RESOURCES BOARD / ACT 250

10 Baldwin Street
Montpelier, Vermont 05633-3201

February 5, 2021

To: The Honorable Phil Scott, Governor
Senator Christopher Bray, Chair, Senate Committee on Natural Resources and Energy
Senator Jeanette White, Chair, Senate Committee on Government Operations
Representative Amy Sheldon, Chair, House Committee on Natural Resources, Fish & Wildlife
Representative Sarah Copeland-Hanzas, Chair, House Committee on Government Operations

From: Diane B. Snelling, Chair, Natural Resources Board / Act 250

Dear Friends,

Everyone at the Natural Resources Board (NRB) / Act 250 has experienced the difficulties around Covid-19 and we continue to work in intensified circumstances. Despite the challenges, the staff has adapted, and I am proud to say that the NRB / Act 250 has continuously served the public remotely since March 13, 2020. When necessary we modified practices and learned new ways to review evidence.

Using Teams video is basic now and we have accepted the necessity and convenience of remote communications. We have also acknowledged the differences with in-person discussions. Performance standards continue to demonstrate that 73% (+/-) of all Act 250 applications have permits issued in 60 days or less. Reasons for delays are varied and not always within the control of Act 250.

After substantial effort, the new online application and expanded database should be available soon and will update and improve the filing of Act 250 applications. The IT development process eventually identified over 300 actions in the logistics of reviewing Act 250 permit applications. This important advancement will facilitate new transparency to tracking permits and add efficiency and effectiveness.

As an organization the NRB / Act 250 continues to operate within its budget and make multiple use of every dollar. It is also clear that the current funding formula is not sufficient, or reliable and each year is subject to threats of deficits.

I wish to express my sincere thanks to the volunteer members of the Natural Resources Board, and all 60+ Act 250 District Commissioners. Act 250 was conceived as a system that valued public input and the perspective of regular Vermonters. That premise has provided a solid structure for many years. In a time that is increasingly busy and diverse, Act 250 continues to rely on people willing to give their time and energy to serve as volunteers. It is the nine District Commissions that issue Act 250 permits, and they deserve deep appreciation.

Sincerely,

A handwritten signature in blue ink that reads "Diane".

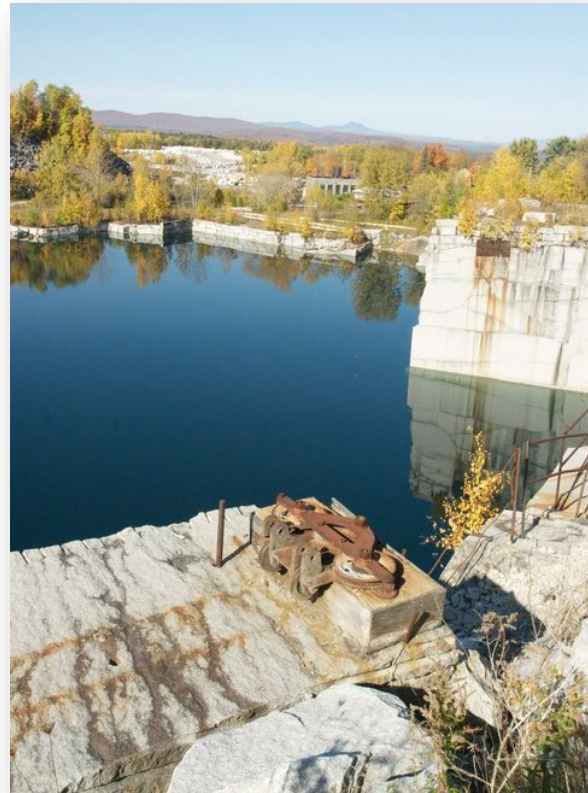


nrb.vermont.gov

Vermont Natural Resources Board / Act 250

The Natural Resources Board (NRB) is an independent entity in the Executive Branch of Vermont State Government whose primary function is to administer Act 250 (10 V.S.A. Chapter 151.) There are 25 full-time employees and approximately 70 citizen volunteers serving as Commissioners and Board members that support the work of the NRB's Central Office and the District offices.

The NRB consists of a full-time Chair and four citizen volunteer members, plus up to five alternates. Board Members are appointed by the Governor to 4-year staggered terms, except for the Chair who serves at the pleasure of the Governor. Its members in 2020 were Chair Diane B. Snelling (Hinesburg), Vice Chair Brad Aldrich (Shelburne), Andrew Collier (Westford), Steve Larrabee (West Danville), and Don Turner (Milton). The alternates in 2020 were Julie Wolcott (Enosburg Falls), Gail Fallar (Tinmouth), and Elizabeth Courtney (Montpelier). All Board Members and Alternates must be confirmed by the Senate.



Former quarry, Barre Town, VT (photo credit: Jim Eaton, Vermont Image Relay).

The Board's primary function is to administer Act 250, with an emphasis on promulgating rules, participating in appeals, and enforcing Act 250 violations. In addition, the Board offers support to the nine District Environmental Commissions that review Act 250 applications and issue permits.

The District Commissions sit as 3-member quasi-judicial bodies to review Act 250 applications. The Commissions issue permit decisions based on the application and other filings if no hearing is requested. They will hold contested case hearings when facts are disputed or unclear. District Environmental Coordinators, administrative staff, and the NRB attorneys support the Commissions in their work.

The NRB attorneys assist the District Commissions and Coordinators as needed on procedural and substantive issues that arise in Act 250 proceedings, including legal counsel, research, and drafting. The NRB participates as a party to Act 250 appeals before the Superior Court, Environmental Division.

Appeals from District Commissions (regarding permits) and from District Coordinators regarding Jurisdictional Opinions (JOs) are heard by the Vermont Superior Court, Environmental Division. The NRB appears and participates in such appeals. The NRB has authority to hear appeals from the Commission related to permit application fees and certain applications for requests for findings of fact and conclusions of law under specific Act 250 criteria for Designated Growth Centers. As of the passage of Act 174 in 2016, the NRB is also authorized to hear appeals of energy compliance determinations issued by the Commissioner of the Department of Public Service under 24 V.S.A. §4352(a). Less formally, NRB staff work with District Commissions and Coordinators to ensure consistent treatment of emerging state-wide issues related to the 10 Criteria of Act 250, while concurrently respecting the District Commissions' independence and regional perspective.

Natural Resources Board

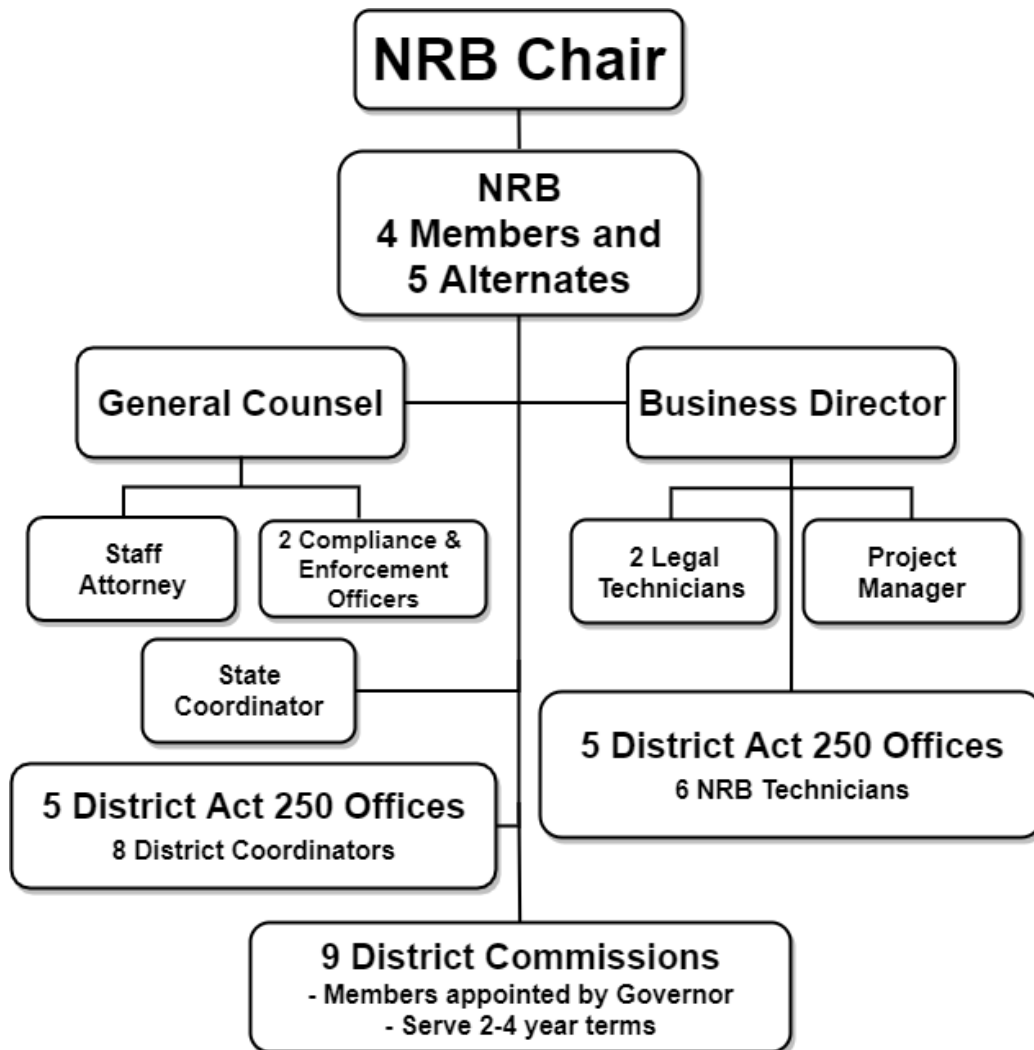
Board Members 2020

- Diane B. Snelling, Chair
- Brad Aldrich, Vice Chair (Exp. 1/31/2021)
- Steven Larrabee (Exp. 1/31/2022)
- Donald Turner (Exp. 1/31/2023)
- Andrew Collier (Exp. 2/29/2024)

Alternate Board Members 2020

- Elizabeth Courtney (Exp. 1/31/2020)
- VACANT
- Gail Fallar (Exp. 1/31/2017)
- Julie Wolcott (Exp. 1/31/2018)
- VACANT

The Chair of the NRB is charged with the overall administration of Act 250. These duties include developing and monitoring the NRB budget, procedural and substantive rulemaking, enforcement of Act 250 and mixed Act 250/ANR violations, general oversight of court appeals, oversight of the offices and employees of the NRB and the District Commissions, stakeholder relations, coordination with other state agencies, and legislative matters. The Chair, or designee, is also a member of the Downtown Development Board, and as such, the NRB participates in all Downtown Board decision making. The Downtown Development Board is responsible for designating downtown development districts, village centers, new town centers, growth centers, and neighborhood development areas; and for awarding financial incentives, pursuant to 24 V.S.A. Chapter 76A.



02-04-21

Natural Resources Board Central Office Staff

Greg Boulbol, General Counsel

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Aaron Brondyke, State Coordinator

Natural Resources Board
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Alexandra Pastor, Project Manager

Natural Resources Board
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Katie Emerson, Legal Technician

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Katharine Servidio, Compliance and Enforcement Officer

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Kimberley Lashua, Business Director

Natural Resources Board
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Diane B. Snelling, Chair

Natural Resources Board
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Evan Meenan, Associate General Counsel

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Michaela Stickney, Compliance and Enforcement Officer

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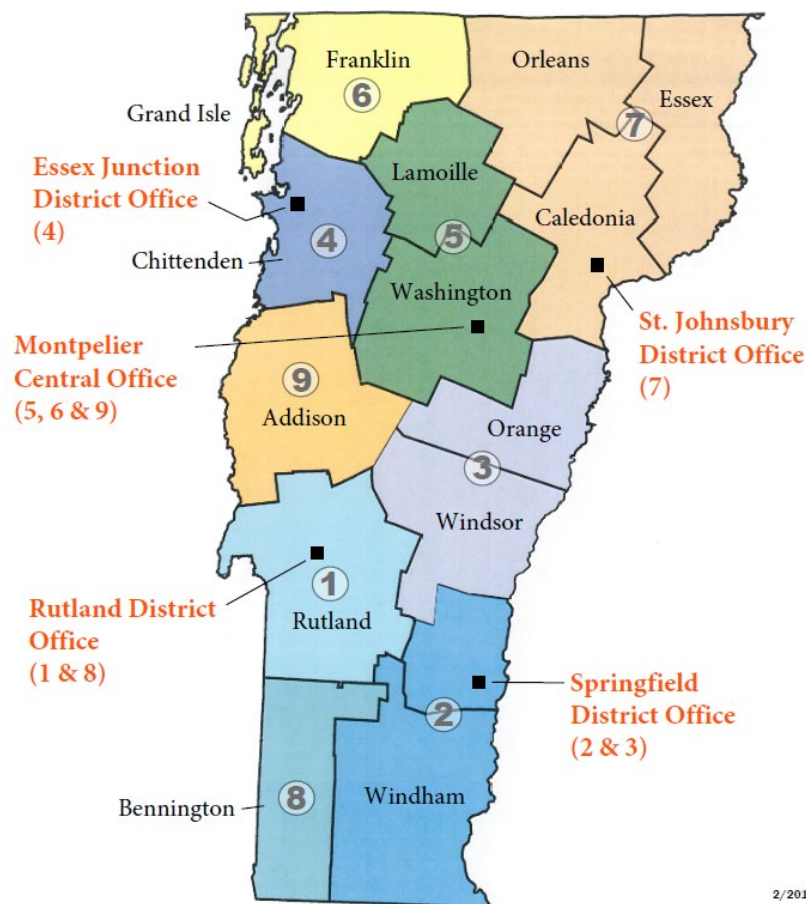


Designated Village Center, Craftsbury, VT (photo credit: Richard Amore, ACCD).

District Environmental Commissions and Staff

District Commissions are the heart of the Act 250 process. Nine District Commissions are responsible for assuring that developments and subdivisions comply with the 10 criteria of Act 250. Each Commission is composed of a Chair, two members, and four alternates, all residing in the district they serve. All Commissioners are appointed by the Governor. Each of the nine Commissions is staffed by one or two District Coordinators and Technicians who provide professional and administrative support. The Commission offices are found in five regional locations: Springfield, Rutland, Essex, St. Johnsbury, and Montpelier. Over the past 5 years, District offices have collectively processed an average of 435 Land Use Permit (Act 250) applications per year.

District Coordinators help Act 250 applicants, parties, and the public who seek to participate in the Act 250 process. This assistance is critical to maintaining an open, transparent, and citizen-friendly quasi-judicial process. Another important responsibility of Coordinators is issuing JOs regarding Act 250 jurisdiction. These are subject to appeal at the Superior Court, Environmental Division. The District Coordinators also collaboratively work with the NRB Compliance & Enforcement Officers and attorneys to enforce the Act 250 statute and land use permits.



Current District Commissions and Staff

District 1

Rutland County

Staff

District 1 Coordinator

Kim Lutchko, Tel. (802) 786-5099
e-mail: kim.lutchko@vermont.gov

NRB Technician

Sabrina Urich, Tel. (802) 786-5920
e-mail: Sabrina.Urich@vermont.gov

Address

District #1 Environmental Commission
440 Asa Bloomer State Office Building
88 Merchants Row, 4th Floor
Rutland, VT 05701

District 1 Environmental Commission

Chair:

John Casella (Exp. 1/31/2021)

Members:

VACANT

Mary Shaw (Exp. 1/31/2023)

Alternates:

John Bloomer (Exp. 1/31/2021)

VACANT

Devon Fuller (Exp. 1/31/2021)

VACANT

District 2


Roughly Windham County and the southern half of Windsor County

Staff


District 2 Coordinator

Stephanie Gile, Tel. (802) 289-0597 
e-mail: stephanie.gile@vermont.gov

NRB Act 250 Specialist

Kim Lutchko, Tel. (802) 289-0601 
e-mail: kim.lutchko@vermont.gov

NRB Technician

Rebecca Bezanson, Tel. (802) 289-0599 
e-mail: rebecca.bezanson@vermont.gov

Address

District #2 Environmental Commission
100 Mineral Street, Suite 305
Springfield, VT 05156-3168

District 2 Environmental Commission

Chair:

Thomas Fitzgerald (Exp. 1/31/2021)

Members:

Abbie Corse (Exp. 1/31/2021)

Gabrielle Ciuffreda (Exp. 1/31/2023)

Alternates:

Chris Callahan (Exp. 1/31/2021)

Cheryl Cox (Exp. 1/31/2021)

Julia Schmitz (Exp. 1/31/2017)

Mark Mullen (Exp. 1/31/2020)

District 3


Roughly Northern Windsor County and Orange County (except the towns of Washington, Williamstown and Orange, which are all within District 5)

Staff


District 3 Coordinator

Linda Matteson, Tel. (802) 289-0598, 
e-mail: linda.matteson@vermont.gov

NRB Act 250 Specialist

Kim Lutchko, Tel. (802) 289-0601, 
e-mail: kim.lutchko@vermont.gov

NRB Technician

Rebecca Bezanson, Tel. (802) 289-0599, 
e-mail: rebecca.bezanson@vermont.gov

Address

District #3 Environmental Commission
100 Mineral Street, Suite 305
Springfield, VT 05156-3168

District 3 Environmental Commission

Chair:

Tim Taylor (Exp. 1/31/2021)

Members:

Roderick J. Maclay (Exp. 1/31/2023)
Suzanne Butterfield (Exp. 1/31/2021)

Alternates:

Anne Margolis (Exp. 1/31/2021)
Marvin Harvey (Exp. 1/31/2020)
Linda Gray (Exp. 1/31/2021)
Clotilde Hryshko (Exp. 1/31/2021)

District 4

Chittenden County

Staff

District 4 Coordinators

Rachel Lomonaco, Tel. (802) 879-5658
e-mail: rachel.lomonaco@vermont.gov

Stephanie Monaghan, Tel. (802) 879-5662
e-mail: stephanie.monaghan@vermont.gov

NRB Technician

Christine Commo, Tel. (802) 879-5660
e-mail: christine.commo@vermont.gov

NRB Technician

Jessa Mason, Tel. (802) 879-5670
e-mail: jessica.mason@vermont.gov

Main Number

Tel. (802) 879-5614

Address

District #4 Environmental Commission
111 West Street
Essex Junction, VT 05452

District 4 Environmental Commission

Chair:

Thomas A. Little, Esq. (Exp. 1/31/2021)

Members:

Monique Gilbert (Exp. 1/31/2021)
Parker Riehle (Exp. 1/31/2023)

Alternates:

James McNamara (Exp. 1/31/2021)
Scott Baldwin (Exp. 1/31/2021)
Kate Purcell (Exp. 1/31/2021)
Pamela Loranger (Exp. 1/31/2022)

District 5

Washington and Lamoille Counties and the towns of Williamstown, Washington and Orange

Staff

District 5 Coordinators

Susan Baird, Tel. (802) 476-0134
e-mail: susan.baird@vermont.gov

Josh Donabedian, Tel. (802) 476-0186
e-mail: joshua.donabedian@vermont.gov

NRB Technician

Lori Grenier, Tel. (802) 476-0185
e-mail: lori.grenier@vermont.gov

Main Number
Tel. (802) 476-0185

Address

District #5 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201

District 5 Environmental Commission

Chair:

Matthew F. Krauss (Exp. 1/31/2021)

Members:

Joslyn Wilscheck (1/31/2022)
Jeremy Reed (Exp. 1/31/2021)

Alternates:


Josh Fitzhugh (Exp. 1/31/2022)
Ken Goslant (Exp. 1/31/2022)
VACANT
VACANT


District 6

Franklin and Grand Isle Counties


Staff


District 6 Coordinators

Susan Baird, Tel. (802) 476-0134, 
e-mail: susan.baird@vermont.gov

Josh Donabedian, Tel. (802) 476-0186, 
e-mail: joshua.donabedian@vermont.gov

NRB Technician

Lori Grenier, Tel. (802) 476-0185, 
e-mail: lori.grenier@vermont.gov

Main Number
Tel. (802) 476-0185, 

Address

District #6 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201

District 6 Environmental Commission

Chair:

Daniel Luneau (Exp. 1/31/2021)

Members:

Dave Kimel (Exp. 1/31/2023)
John Brigham (Exp. 1/31/2021)

Alternates:


Mark Naud (Exp. 1/31/2021)
Megan Manahan (Exp. 1/31/2018)
Ashley Toof (Exp. 1/31/2020)
Sylvia Jensen (Exp. 1/31/2021)

District 7

Caledonia, Orleans and Essex Counties

Staff

District 7 Coordinator

Kirsten Sultan, Tel. (802) 751-0126 


e-mail: kirsten.sultan@vermont.gov

NRB Technician

Gina St. Sauveur, Tel. (802) 751-0120 

e-mail: gina.stsauveur@vermont.gov

Main Number

Tel. (802) 751-0120 

Address

District #7 Environmental Commission
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819-2209

District 7 Environmental Commission

Chair:

Eugene Reid (Exp. 1/31/2021)

Members:

Keith Johnson (Exp. 1/31/2021)

Nicole Davignon (Exp. 1/31/2023)

Alternates:

Clark Atwell (Exp. 1/31/2017)

Dexter Randall (Exp. 1/31/2017)

Patricia Sears (Exp. 1/31/2017)

VACANT

District 8

Bennington County

Staff

District 8 Coordinator

Kim Lutchko, Tel. (802-786-5099)

e-mail: kim.lutchko@vermont.gov

NRB Technician

Sabrina Urich, Tel. (802-786-5920)

e-mail: Sabrina.Urich@vermont.gov

Address

District #8 Environmental Commission
440 Asa Bloomer State Office Building
88 Merchants Row, 4th Floor
Rutland, VT 05701



District 8 Environmental Commission

Chair:

VACANT

Members:

Richard Kobik (Exp. 1/31/2021)

Don Miller (Exp. 1/31/2023)

Alternates:

Leslie Keefe (Exp. 1/31/2021)

VACANT

Michael McDonough (Exp. 1/31/2019)

VACANT

District 9

Addison County

Staff

District 9 Coordinators

Susan Baird, Tel. (802) 476-0134, [e-mail: susan.baird@vermont.gov](mailto:susan.baird@vermont.gov)

Josh Donabedian, Tel. (802) 476-0186, [e-mail: joshua.donabedian@vermont.gov](mailto:joshua.donabedian@vermont.gov)

NRB Technician

Lori Grenier, Tel. (802) 476-0185, [e-mail: lori.grenier@vermont.gov](mailto:lori.grenier@vermont.gov)

Address

District #9 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201
Tel. (802) 476-0185, [e](tel:(802)476-0185)

District 9 Environmental Commission

Chair:

Fred Baser (Exp. 1/31/2021)

Members:

Al Karnatz (Exp. 1/31/2020)

Connie Houston (1/31/2023)

Alternates:

Pennie Beach (Exp. 1/31/2021)

Warren Van Wyck (Exp. 1/31/2021)

Ken Perine (Exp. 1/31/2021)

VACANT



Maple syrup production, Skinner Hollow Farm; Manchester, VT (photo credit: Stephen Goodhue, Image Relay)



The Dutton sugarhouse; Manchester, VT (photo credit: Stephen Goodhue, Image Relay).

ACT 250 Applications

Deemed Complete

Note: The term "deemed complete" is the date upon which an application is deemed to be both technically and administratively complete.

The deemed-complete report is based on a statistical analysis of NRB and District Commission activity during Calendar Year 2020 (CY 2020). Fiscal Year (FY) data has been used only for the fee revenue analysis.

- In CY 2020, 339 permit applications were filed (i.e., deemed complete) among the nine District Commissions.
- In CY 2020, 338 permit decisions were issued among the nine District Commissions. (Some of those applications had been deemed complete prior to January 1, 2020.) Of the 338 decisions issued in CY 2020, 41% were processed as administrative amendments, 55% as "Minor" applications with no contested-case hearings, and 4% were processed as "Major" applications. A public hearing is required for Major applications in order to review the project's conformance to the 10 Criteria of Act 250.

Act 250 Applications Deemed Complete

| | 2016 | 2017 | 2018 | 2019 | 2020 |
|---------------------------|------------|------------|------------|------------|------------|
| Major (Hearing Required) | 46 | 33 | 36 | 23 | 9 |
| Minor (No Hearing) | 218 | 236 | 192 | 220 | 191 |
| Administrative Amendments | 201 | 254 | 176 | 202 | 139 |
| TOTALS | 465 | 523 | 404 | 445 | 339 |

Processing Times by Application Type, 2020 Only

| From date application deemed complete to date permit, findings, or denial issued | Administrative Amendment Applications | Minor Applications | Major Applications (including Minors that became Majors) | Minor Applications that Became Major Applications | All Application Types Combined |
|--|---------------------------------------|--------------------|--|---|--------------------------------|
| 0 – 30 days | 95.6% | 20.3% | 7.1% | 0.0% | 50.3% |
| 31 – 60 days | 2.2% | 39.6% | 0.0% | 0.0% | 22.8% |
| 61 – 90 days | 0.7% | 14.4% | 7.1% | 16.7% | 8.6% |
| 91 – 120 days | 0.7% | 8.0% | 7.1% | 16.7% | 5.0% |
| More than 120 days | 0.7% | 17.6% | 78.6% | 66.7% | 13.3% |

- For CY 2020, the average processing time for permit application decisions across all application types (Administrative Amendments, Minors, and Majors) was 60.4 days from the date the application was deemed complete until a decision was issued. If considering Minor and Major applications alone, the average processing time was 96.3 days.
- In CY 2020, 56.2% of all Major and Minor permit decisions were issued within 60 days. When Administrative Amendments are added, the percentage for all applications issued in 60 days or less rises to 73.1% for the same timeframe. A total of 86.7% of all applications were issued within 120 days.
- One Major permit application was denied in CY 2020, representing 7.1% of major decisions issued.
- Three of the 14 Major decisions issued, or 21.4%, were appealed in CY 2020. This compares to an appeal rate of 21.6% of Major decisions in CY 2019. In addition, 7 JOs were appealed in CY 2020.

Processing Times, Minor and Major Applications Only

| From date application deemed complete to date permit, findings, or denial issued | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|----------------------------|------|------|-------|-------|
| 0 – 30 days | Not available ¹ | | 16% | 21.2% | 19.4% |
| 31 – 60 days | | | 39% | 30.0% | 36.8% |
| 61 – 90 days | | | 17% | 14.0% | 13.9% |
| 91 – 120 days | | | 8% | 10.4% | 8.0% |
| More than 120 days | | | 20% | 24.4% | 21.9% |

¹ Data is not available for these years because it was not calculated in this manner in the respective annual reports.

Processing Times for All Application Types – Comparison with Prior Years

| From date application deemed complete to date permit, findings, or denial issued | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|-------|-------|
| 0 – 30 days | 47% | 56% | 49% | 55.3% | 50.3% |
| 31 – 60 days | 25% | 22% | 24% | 16.8% | 22.8% |
| 61 – 90 days | 8% | 9% | 10% | 7.8% | 8.6% |
| 91 – 120 days | 4% | 4% | 6% | 6.1% | 5.0% |
| More than 120 days | 16% | 9% | 11% | 13.9% | 13.3% |

Note: The application processing times reported above include time spent by applicants obtaining certain permits from other state agencies that are used to document compliance with several Act 250 criteria. This time can vary from several weeks to several months, and on occasion, a year or more. For CY 2020, the Board has broken down processing times by type of application review process [Administrative Amendment, Minor Review, Major Review, and applications that started as a Minor Review, but later went to hearing (Major Review)]. These figures do not include processing times for altered, remanded, corrected, or withdrawn permits.

Performance Standards

Statutory and internal performance standards guide the performance of the District Coordinators and Commissions. Average CY 2020 performance is listed below.

Performance Standards - CY 2020

| Category | Standard | CY 2020 ¹ |
|---|----------|------------------------|
| All Applications Average days for initial application completeness review (Internal Standard) | 7 days | 4.8 days |
| Minor Applications Average days to issue after end of comment period or last item received (Internal Standard) | 10 days | 3.8 days |
| Major Applications Average days to issue after adjournment (Act 250 Rule Standard) | 20 days | 1.4 days |
| Major Applications Average days from deemed complete to pre-hearing or hearing (Statutory Standard) | 40 days | 40.2 days ² |
| Minor-to-Major Applications Average days from end of comment period to pre-hearing or hearing (Statutory Standard) | 20 days | 19.4 days ² |

¹ These figures do not include time periods for decisions on motions to alter, decisions remanded from the court, corrections made to permits to clarify simple errors, formal abandonment proceedings, or application withdrawal proceedings for permit applications that had been inactive for years. Specifics on the omissions are available upon request.

² These figures do not include one application that followed the Minor-to-Major review process because that decision was issued without a hearing.

Performance Standards – Comparison with Prior Years

| Category | CY 2016 | CY 2017 | CY 2018 ¹ | CY 2019 ¹ | CY 2020 ¹ |
|--|----------------------|----------|------------------------|----------------------|------------------------|
| All Applications Average days for initial application completeness review (Internal Standard: 7 days) | 2.9 days | 2.6 days | 4.6 days | 6.7 days | 4.8 days |
| Minor Applications Average days to issue after end of comment period or last item received (Internal Standard: 10 days) | 7 days | NR | 7.5 days | 7.1 days | 3.8 days |
| Major Applications Average days to issue after adjournment (Act 250 Rule Standard: 20 days) | 15 days | 4.3 days | 7.6 days | 8.0 days | 1.4 days |
| Major Applications Average days from application deemed complete to pre-hearing or hearing (Statutory Standard: 40 days) | 38 days ² | NR | 42.1 days ³ | 50.1 days | 40.2 days ⁴ |
| Minor-to-Major Applications Average days from end of comment period to pre-hearing or hearing (Statutory Standard: 20 days) | NA | NA | 21.5 days | 37.4 days | 19.4 days ⁴ |

NR = not reported; NA = not available because not previously presented in annual reports.

¹ These figures do not include time periods for decisions on motions to alter, decisions remanded from the court, corrections made to permits to clarify simple errors, formal abandonment proceedings, or application withdrawal proceedings for permit applications that had been inactive for years. Specifics on the omissions are available upon request.

² This average does not include 2 cases in which the District Commission granted the applicant and parties additional time to resolve contested issues prior to scheduling a hearing.

³ This average figure includes 1 case in which a District Commission granted an applicant's request for additional time to revise the application materials prior to scheduling a hearing. This extended period lasted more than 3.5 months. If this one unusual case were omitted, this average would be 39.9 days.

⁴ These figures do not include one application that followed the Minor-to-Major review process because that decision was issued without a hearing.

NRB Special Fund – Permit Application Fees

The NRB is funded by a combination of General Funds and Special Funds generated by Act 250 application fees. Act 250 permit application fees are based on the following statutory formulas¹ for each application:

- For every \$1,000.00 of estimated construction cost, \$6.65 is collected for the first \$15,000,000.00 of construction costs, and \$3.12 for each \$1,000.00 of construction costs above \$15,000,000.00. For example, a \$1 million project would be assessed an estimated \$6,650 in Act 250 fees.
- For every \$1,000.00 of estimated construction cost, an additional \$0.75 is collected for the Agency of Natural Resources (ANR) to help offset the cost of ANR’s participation in the Act 250 process on applications that are not administrative in nature.
- For subdivisions, for each lot created, a fee of \$125.00 per lot is collected.
- For applications involving earth extraction, a fee is collected equal to the greater of: a fee based on construction cost (see first bullet); or, a fee equivalent to the rate of \$0.02 per cubic yard of the first million cubic yards of the total volume of earth resources to be extracted over the life of the permit, and \$0.01 per cubic yard of any such earth resource extraction above one million cubic yards.
- For applications involving the review of a master plan, a fee is collected equivalent to \$0.10 per \$1,000.00 of total estimated construction costs in current dollars in addition to the fee established for any portion of the project seeking construction approval (see first bullet). For new applications, a minimum application fee of \$187.50 is collected. For amended applications, a minimum application fee of \$62.50 is collected.
- State and municipal projects are exempt from fees.

Fees are deposited into the Act 250 Special Fund. In FY 2020, the NRB relied on Special Funds to cover 81% of its annual expenditures for personal service and operating costs, with the remaining 19% covered by General Funds.

Total permit application fees collected by Act 250 in the last 5 fiscal years:

| | |
|---------|----------|
| FY 2016 | \$2.397M |
| FY 2017 | \$2.881M |
| FY 2018 | \$1.773M |
| FY 2019 | \$2.135M |
| FY 2020 | \$2.091M |

¹ 10 V.S.A. § 6083a

Certification of Actual Construction Cost Fees

Following the completion of project construction, each permittee is required to file a form certifying actual construction costs (CACC) and pay any additional Act 250 permit fees due. Because CACC fees are directly related to the actual costs of construction, total annual fees can vary significantly from one year to the next. CACC fees collected for the last 5 years are presented below:

| | |
|---------|-----------|
| FY 2016 | \$133,611 |
| FY 2017 | \$49,884 |
| FY 2018 | \$105,421 |
| FY 2019 | \$161,355 |
| FY 2020 | \$212,608 |



Apple harvest in Vermont (photo credit: David Burnell, Image Relay)

Participation in Court Appeals (CY 2020)

The NRB has statutory authority to participate as a party in Act 250 appeals to the Superior Court, Environmental Division. In CY 2020, the NRB participated in 3 Act 250 District Commission decisions and 7 JOs that were appealed to the Superior Court, Environmental Division. The NRB participated, through its attorneys, as a party in all 10 appeals. Only 2 cases were appealed from the Environmental Division to the Vermont Supreme Court in 2020.

Appeals

| | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------------------------|-----------|-----------|----------|-----------|-----------|
| JO Reconsiderations | 9 | NA | NA | NA | NA |
| JO Appeals | 4 | 8 | 3 | 6 | 7 |
| District Commission Decision Appeals | 6 | 14 | 5 | 8 | 3 |
| TOTALS | 19 | 22 | 8 | 14 | 10 |



Designated Downtown, Barre, VT (photo credit: Richard Amore, ACCD).

Compliance and Enforcement

The NRB is authorized to enforce Act 250 pursuant to the Environmental Enforcement Act, Title 10, Chapter 201. The NRB has direct authority to issue Administrative Orders (AOs), Emergency Administrative Orders, Assurances of Discontinuance (AODs), and Civil Citations with respect to violations of Act 250; and the NRB cooperates with ANR on mixed Act 250/ANR enforcement matters. The NRB's Enforcement staff consists of the General Counsel, the Associate General Counsel, and now two full-time Compliance & Enforcement Officers. The Chair of the Board directs the Board's Enforcement Program.

2020 Enforcement Activity

The NRB hired a second Compliance and Enforcement Officer in June to expand active enforcement capability. This year, despite the challenges of COVID, the enforcement officers investigated approximately 130 complaints, including 86 new complaints received in 2020. Some of these complaints were not deemed violations, and some were referred to ANR. The Enforcement Team addressed or initiated 21 formal enforcement actions and resolved 9 violations through formal enforcement. In addition, 44 complaints were resolved without formal enforcement action.

The Board assessed \$35,800 in penalties this year and assessed enforcement costs of approximately \$2,510. All assessed penalties are deposited in the General Fund, whereas assessed NRB enforcement costs are deposited in the Act 250 Special Fund. Several enforcement cases resulted in environmental protection, such as restoration or reclamation activity not reflected in penalty amounts.

The NRB enforcement program resolved 6 cases this year through AODs: 1 through an AO and 2 Civil Citations. AODs are settlement agreements that often include civil penalties and compliance directives. Civil Citations are tickets issued by the Enforcement Officer that levy fines of up to \$3,000 per citation. The Enforcement Team issued 7 Notices of Alleged Violation (NOAVs) in 4 different Act 250 Districts in 2020. NOAVs are warning letters that set out the facts of an alleged violation and invite a response. These often include compliance directives and may be followed up with further enforcement action, including penalties.



Shelburne Farms; Shelburne, VT (photo credit: Skye Charmers, Image Relay)

Enforcement

| | CY 2016 | CY 2017 | CY 2018 | CY 2019 | CY 2020 |
|---|-----------|-----------|----------|------------------------|-----------------------|
| New investigations opened | 98 | 84 | 93 | 60 | 86 |
| Formal enforcement actions initiated or ongoing | 24 | 16 | 6 | 16 | 21 |
| Violations resolved through formal enforcement | 23 | 22 | 9 | 13 | 9 |
| Violations and complaints resolved without formal enforcement | 39 | 62 | 38 | 25 | 44 |
| Total penalties assessed ¹ | \$143,302 | \$117,100 | \$47,895 | \$209,375 ² | \$35,800 |
| Total penalties collected ³ | \$72,366 | \$185,273 | \$41,920 | \$92,767 ⁴ | \$34,760 ⁵ |
| Enforcement costs assessed ⁶ | \$16,342 | \$15,485 | \$3,407 | \$29,931 ⁷ | \$2,510 |

¹ All penalties assessed are deposited in the General Fund and include issued AODs, AOs, and Civil Citations.

² Total penalties assessed include NRB penalties of \$156,375 + ANR penalties of \$24,750 (for cases that included an ANR violation in which NRB took the lead) + Supplemental Environmental Project funds of \$28,250.

³ Total penalties collected may include penalties assessed in previous years.

⁴ CY19 total penalties collected include \$72,950 of NRB penalties + \$19,817 of NRB enforcement costs.

⁵ CY20 total penalties collected include \$28,323 of NRB penalties + \$6,437 of NRB enforcement costs.

⁶ All NRB enforcement costs assessed are deposited in the Act 250 Special Fund.

⁷ Enforcement costs include costs for both NRB (\$27,928) and ANR (\$2,003).



Sugarbush Ski Resort, Waitsfield, VT (photo credit: Dennis Curran, Vermont Image Relay).

Information Technology and Business Process Improvement

New Act 250 Database, Online Application Form Development, and Continued Technological Innovation

The NRB has been working on a multi-year software project with IT staff from the Agency of Digital Services (ADS) to build an improved public Act 250 database website integrated with an entirely online Act 250 application system. The new web portal enhances the user's all-in-one experience by expanding the current Act 250 permit information available to the public, providing additional record and data search capabilities for the same, and publishing the permit program's reported performance standards. In addition, data from two separate databases will be merged into the new database, giving both staff and the public online access to more records in one place than previously possible. The new portal will replace the current Act 250 database portal hosted by ANR on its website.



(Photo credit: Dennis Curran, Image Relay)

The 2018 transition to a new ADS senior project manager narrowed the scope and direction of the project, enabling the NRB to move through preliminary system testing throughout 2019 and start user acceptance testing in mid-December. The project's launch date is scheduled for 2021.



Shelburne Farms; Shelburne, VT (photo credit: Skye Charmers, Image Relay)

CRF Scanning Project

In 2020, the NRB submitted a request to the Joint Fiscal Committee for CARES Act Funding to expedite the digitization of paper-based land-use permit records specifically related to COVID-19-related projects. The scanning project was approved in August with a deadline of project completion by December 31, 2020. The NRB consulted widely with staff, District Commissioners, the Board, and Agency partners to define which projects would be best suited for digitization. The final selection focused on Master Plan projects associated with healthcare facilities, housing projects, industrial parks, and ski resorts with the highest number of application amendments and whose original permit was historically among the oldest.

The records and documents scanned span all nine Act 250 districts and comprised 42 different project series, several of which involved the same applicant. This project allowed NRB to explore and manage numerous challenges and risks associated with digitization.



Scanning completed for Act 250 Permit records funded by the CARES Act. The NRB Records and Information Management Technician is pictured with boxed records prepared for and returned from digitization (photo credit: Natural Resources Board).

From The Findings, Sec. 1 of Act 250:

“...it is necessary to regulate and control the utilization and usages of lands and the environment to insure [sic] that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are suitable to the demands and needs of the people of this state.”



This document has been prepared pursuant to 10 V.S.A. Section 6083(d), which requires that the Natural Resources Board (NRB) submit a report annually to the General Assembly (see statutory reference below.) In addition, a copy is made available to the Governor and the Committees noted below.

(d) The Board and Commissions shall make all practical efforts to process matters before the Board and permits in a prompt manner. The Board shall establish time limits for the processing of land use permits issued under section 6086 of this title as well as procedures and time periods within which to notify applicants whether an application is complete. The Board shall report annually by February 15 to the General Assembly by electronic submission. The annual report shall assess the performance of the Board and Commissions in meeting the limits; identify areas which hinder effective performance; list fees collected for each permit; summarize changes made to improve performance; and describe staffing needs for the coming year. The annual report shall list the number of enforcement actions taken by the Board, the disposition of such cases, and the amount of penalties collected. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the report to be made under this subsection.