

**State of Vermont
Natural Resources Board and District Commissions
Procedure Statement**

RE: *Rule 51 Procedures*
File *Under: Rule 51*
Cross Ref: *§ 6084*
Supersedes: *Procedure adopted June 23, 2004*
Effective Date: *October 18, 2016*

1. Notice of Minor Application; Hearing Date; Notice Period

The Notice Period for Minor Applications shall be 20 calendar days unless the District Commission determines that a shorter notice period is appropriate. The minimum notice period shall be seven business days. The original Notice of Minor Application shall not include a hearing date, unless the Commission has scheduled a specific date, time, and location for a hearing. In such cases, the hearing date shall be scheduled within 40 days of accepting the application as complete. In cases where the Commission receives a valid request for a hearing within the comment period set forth in the Minor Notice, and the Commission has not previously set aside a specific date for a hearing, the hearing shall be scheduled not later than 20 days after the end of the comment period, providing at least 10 days notice to the parties, pursuant to § 6084(b)(1).

See Minor Notice Shell for specific language.

2. Notice Following Request for Hearing

When the District Commission schedules a hearing on a minor application, following a request from a party or on its own motion, notice shall be sent to all persons who have requested a hearing and to all persons on the original certificate of service, including all adjoining property owners, unless the Commission waives the provision of personal notice pursuant to Environmental Board Rule 10(F). The hearing notice shall state the specific criteria which were identified by the person(s) requesting the hearing or identified by the Commission, if the hearing was scheduled by the Commission on its own motion.

It is not necessary to publish the hearing notice in the local newspaper, however the notice may be published if the Commission determines that special circumstances warrant a published notice and the Environmental Board Business Manager authorizes the expense. The Commission must provide at least 10 days notice of the hearing, pursuant to § 6084(b)(1).

See Minor Hearing Notice shell.

3. Party Status

When the Commission holds a hearing on a minor application, either at the request of a party or on its own motion, the Commission shall accept petitions for party status from any person attending the hearing, regardless of whether the person submitted a hearing request, and regardless of whether the issues the person seeks to address were identified in the hearing notice. (See 4. Scope of Hearing below.) The Commission shall then proceed to determine party status according to 10 V.S.A. § 6085(c)(6), which states that “[a] district commission shall re-examine party status determinations before the close of hearings and state the results of that re-examination in the district commission decision.”

4. Scope of Hearing

Rule 51(D) states that “[i]f a hearing is convened, it shall be limited to those criteria or sub-criteria identified by a statutory party, successful petitioner for party status, or by the district commission unless the district commission, at its discretion, determines before or during the hearing, that additional criteria or subcriteria should be addressed.” Therefore, the scope of the hearing will be limited to those criteria on which a person has party status, whether that person requested the hearing or entered the process after the hearing was requested. The Commission may expand the scope of the hearing to other criteria if it determines that other criteria should be addressed.

See Minor Hearing Notice Shell.

Approved by the Natural Resources Board October 11, 2016.