

Act 250 and the Natural Resources Board

**2023 Presentation to the Vermont
Legislative Committees**

Topics:

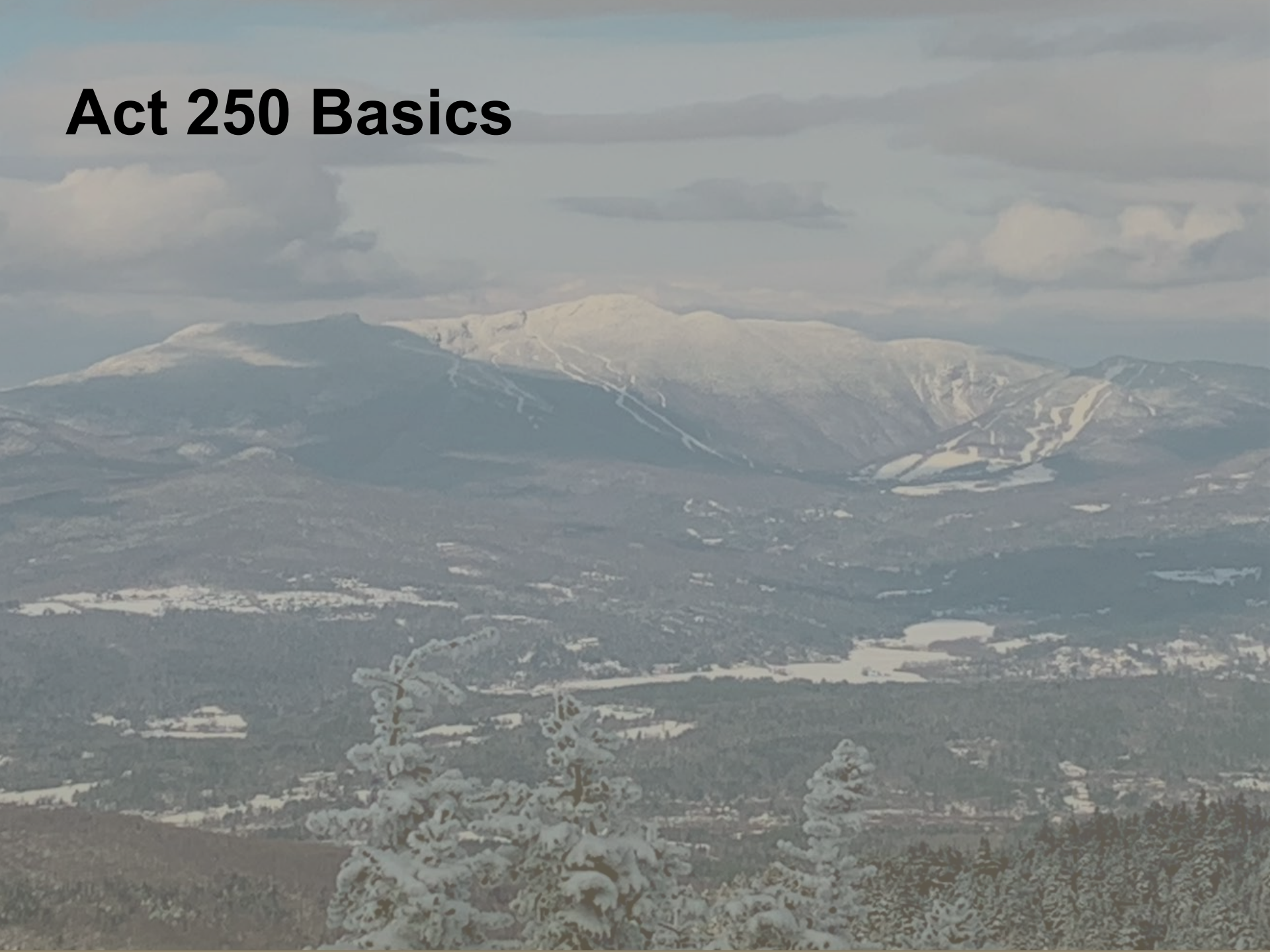
1. Act 250 basics

2. Act 182 and Legislative Reports

3. Permitting trends

4. Updates and ARPA Funding

Act 250 Basics

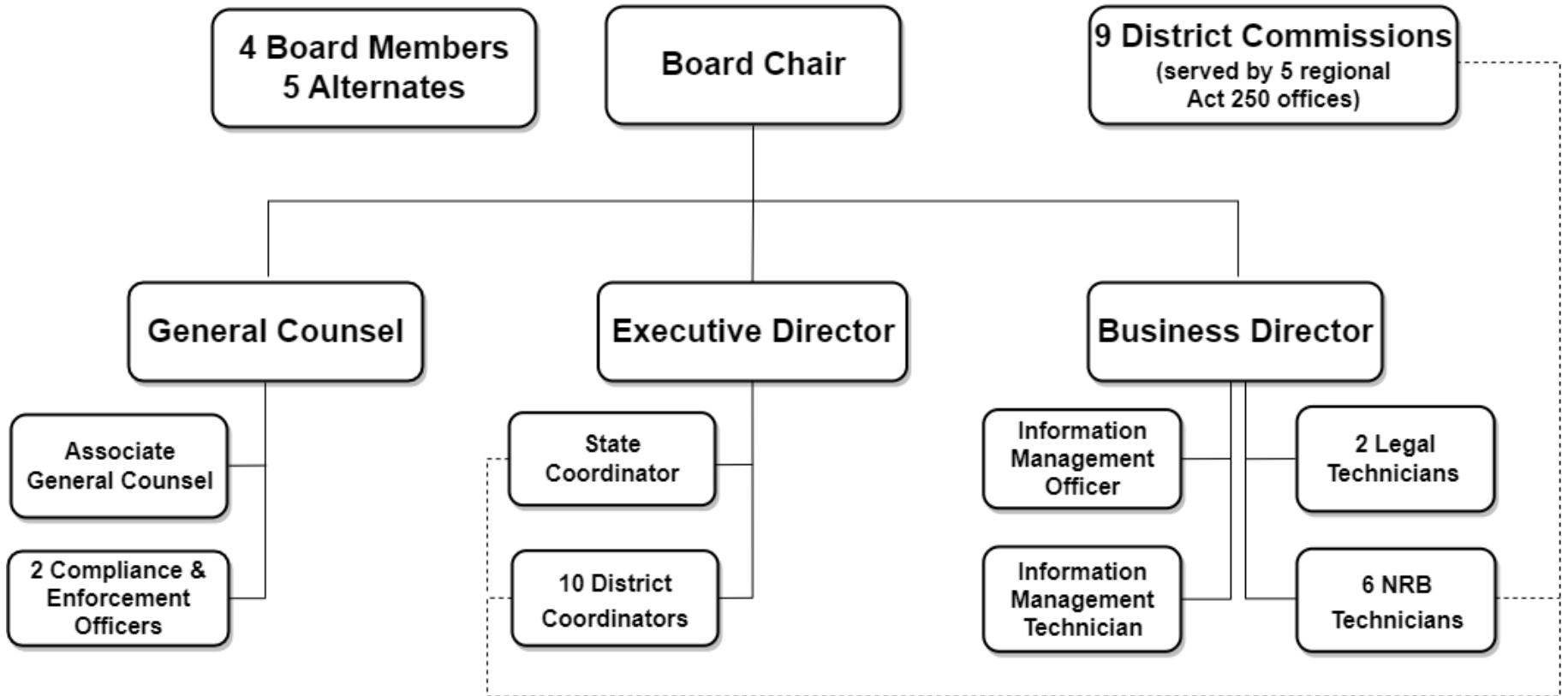


Act 250 Basics

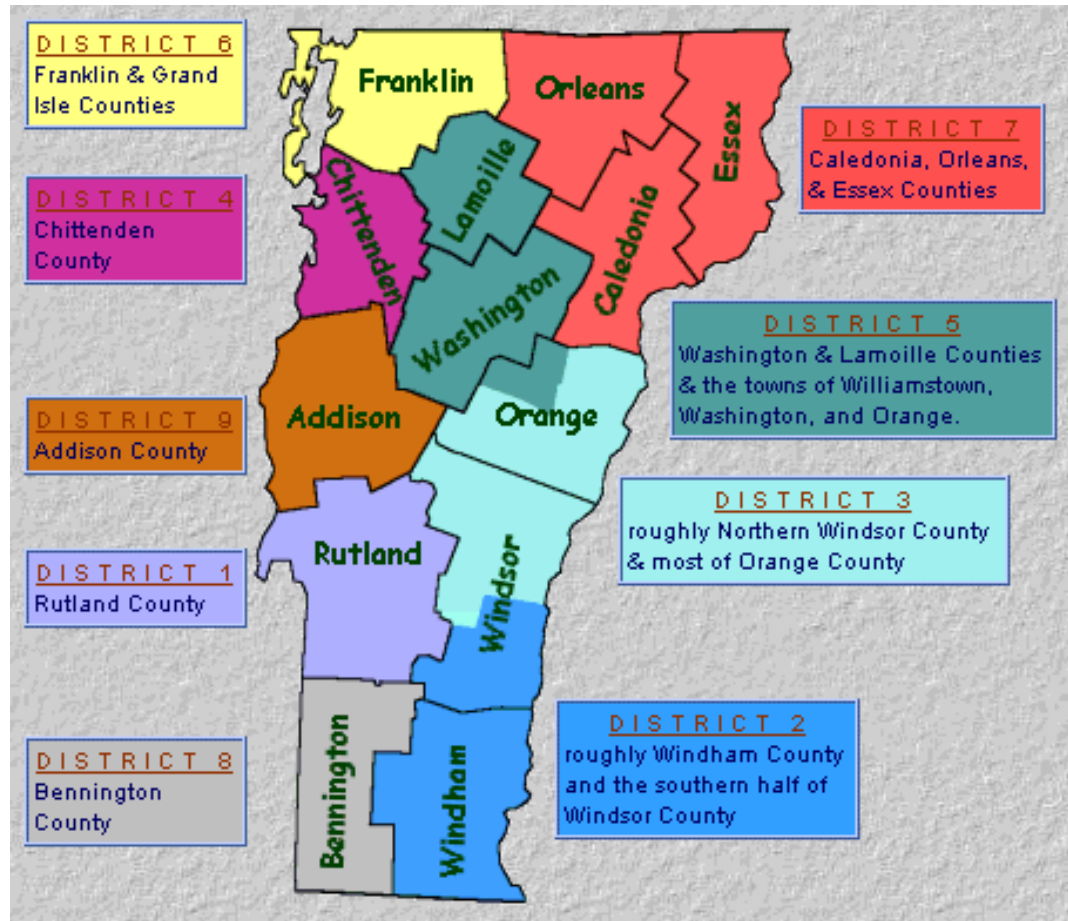
- Natural Resources Board oversees Vermont's statewide land use review process known as Act 250.
- Quasi-judicial process by which a proposed jurisdictional project is reviewed by a District Commission for adherence to 10 statutory criteria under the statute.
- The review integrates water quality, wildlife, traffic, historic preservation, aesthetic, town planning and services, and other reviews in cohesive permitting process.

Natural Resources Board

11-21-22



9 District Environmental Commissions



[District Staff and Environmental Commissions | Natural Resources Board \(vermont.gov\)](http://vermont.gov)



District Commissioners

Our 10 District Coordinators work with 63 volunteer District Commissioners to review projects. Commissioners are appointed by the Governor for staggered 2-4-year terms.

Role of Act 250 District Coordinator:

- **Jurisdictional Opinions:** To determine whether a project requires a permit under the law.
- **Coordination:** To facilitate the review process for applicants, the Commission, & other parties (if any).
- **As a “Clerk:”** To draft the Commission’s written decision.



Criteria for Evaluating Projects:

- **Criterion 1:** Air and water pollution

- 1(A): Headwaters
- 1(B): Waste disposal
- 1(C): Water conservation
- 1(D): Floodways
- 1(E): Streams
- 1(F): Shorelines
- 1(G): Wetlands

- **Criterion 2:** Water supply

- **Criterion 3:** Impact on water supply

- **Criterion 4:** Erosion and capacity of soil to hold water

- **Criterion 5:** Transportation

- 5(A): Traffic
- 5(B): Transportation

- **Criterion 6:** Educational services

- **Criterion 7:** Municipal services

- **Criterion 8:** Aesthetics, scenic & natural beauty

- Historic sites

- Historic sites - archeology
- Rare and irreplaceable natural areas
- 8(A): Necessary wildlife habitat

- **Criterion 9**

- 9(A): Impact of growth
- 9(B): Primary agricultural soils
- 9(C): Productive forest soils
- 9(D): Earth resources
- 9(E): Extraction of earth resources
- 9(F): Energy conservation
- 9(G): Private utility services
- 9(H): Costs of scattered development
- 9(J): Public utility services
- 9(K): Public investments
- 9(L): Settlement patterns (*formerly "Rural growth areas"*)

- **Criterion 10:** Local and regional plans

Act 250 Jurisdiction: What's in...

- Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations
- Commercial development on >1 or >10 acres, depending on a town's zoning and subdivision regulations
- State or municipal projects when >10 acres of land are used
- Housing projects with 10 or more units (higher unit thresholds for affordable housing in state designated centers)
- Communication towers >50 feet
- Commercial, residential, or industrial development above 2,500 feet elev.
- Material change to an Act 250-permitted subdivision or development, and
- Substantial change to a pre-1970 subdivision or development

Act 250 Exemptions: What's NOT in...*

- Farming, logging, or forestry below 2,500 feet in elevation
- Improvements for electric generation, energy storage, or transmission, or telecommunications facility that requires a Certificate of Public Good from the Public Utility Commission.
- Certain: Agricultural fairs, exhibitions, abatements, compost facilities, priority housing projects
- Many other exemptions for specific project types (including certain government projects such as wastewater treatment facility enhancements, water supply enhancements, building renovations, and public school reconstruction with an increase in capacity <10 %; registered slate quarries; replacement/maintenance of municipalities water and sewer lines, Priority housing in designate center,

*Consult 10 VSA Sect. 6000 et. seq. for specifics and full list.

Legislative Reports



Legislative Reports (Act 182)

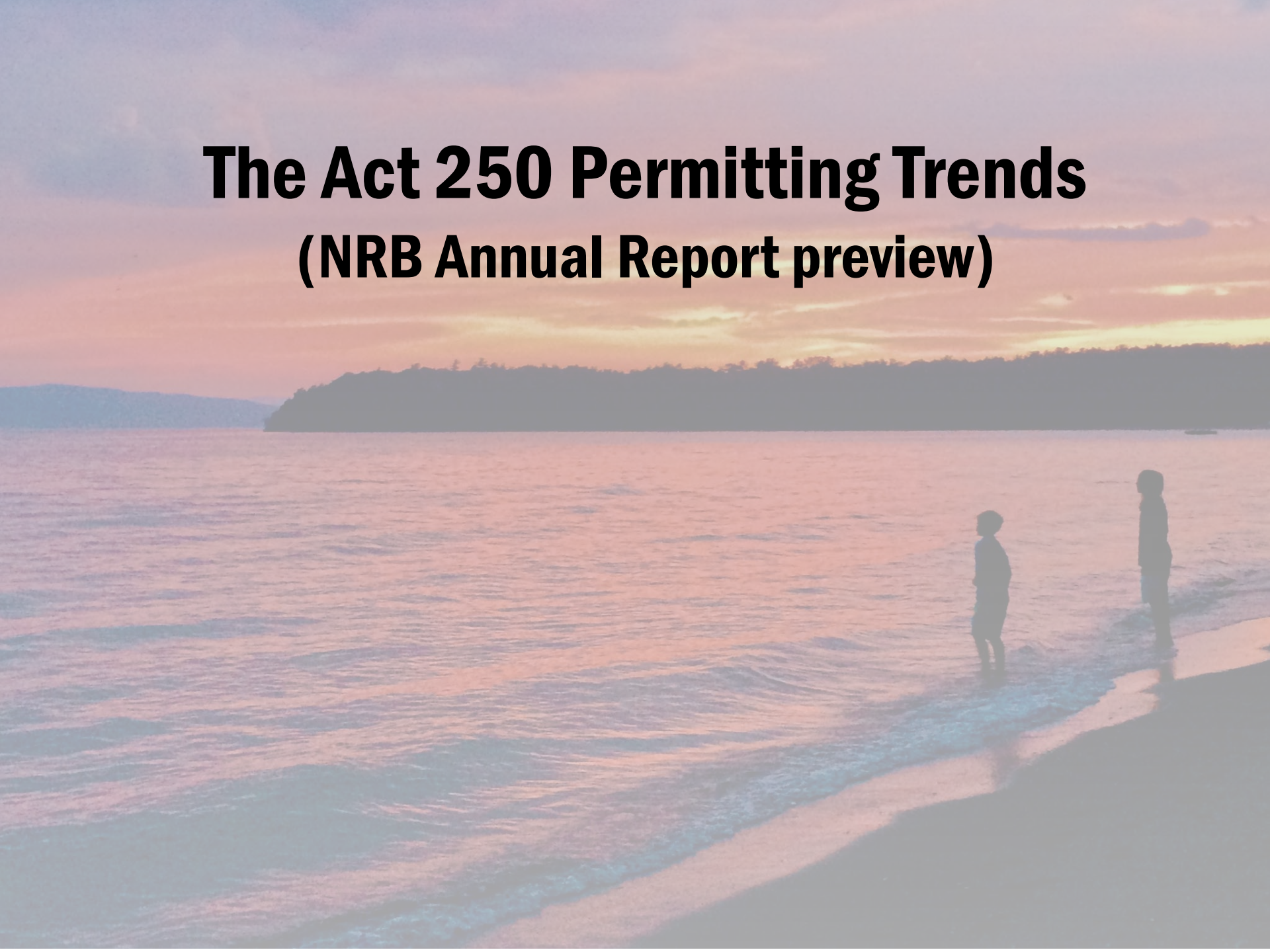
1. **Application of Act 250 jurisdiction to Agricultural Businesses** (NRB, (Due: 1/15/2023)
 - *Options for municipal Accessory on Farm Business determinations*
 - *Encourage activities with farming nexus*
 - *Options for Act 250 Jurisdiction over AOFBs*
2. **Designated Area Report** (Dept of Housing and Community Development, due: 7/15/2023, extended to mid-Dec)
3. **Necessary Updates to the Act 250 program** by NRB (Due: 12/31/2023)
 - Review 6 aspects related to jurisdiction and operations of Act 250

Act 250 Necessary Updates Report

General Approach:

- Review each of the six legislatively requested topics:
 - Location-based jurisdiction
 - Compatibility and Development Plan
 - Staffing Assessment
 - Fee Sufficiency and Source
 - Fee as Incentive
 - Assessment of costs on Applicants
- Plan for stakeholder and expert involvement within state government, nonprofit, and private sector. Varies depending on topic.
- Initial focus on individuals/organizations with experience and expertise in Act 250. Then expand to state-wide input.
- Internal development of report, with copy to legislative committees of jurisdiction by **Dec 31, 2023**.

The Act 250 Permitting Trends (NRB Annual Report preview)



Every year the Act 250 District Commissions issue:

430 Land Use Permit Decisions

22 with hearing (5%)

408 without hearing (95%)

Over 65% issued within 90 days of application

7 decisions appealed

1.4 decisions (0.3%) denied

Act 250 Permits by the numbers...

2022 (1/2022 thru 11/2022):

379 permits issued

17 majors

206 minors

148 Administrative Amendments

2021 (all 12 months):

442 permits issued

14 majors

248 minors

180 Administrative Amendments

NRB Budget Summary

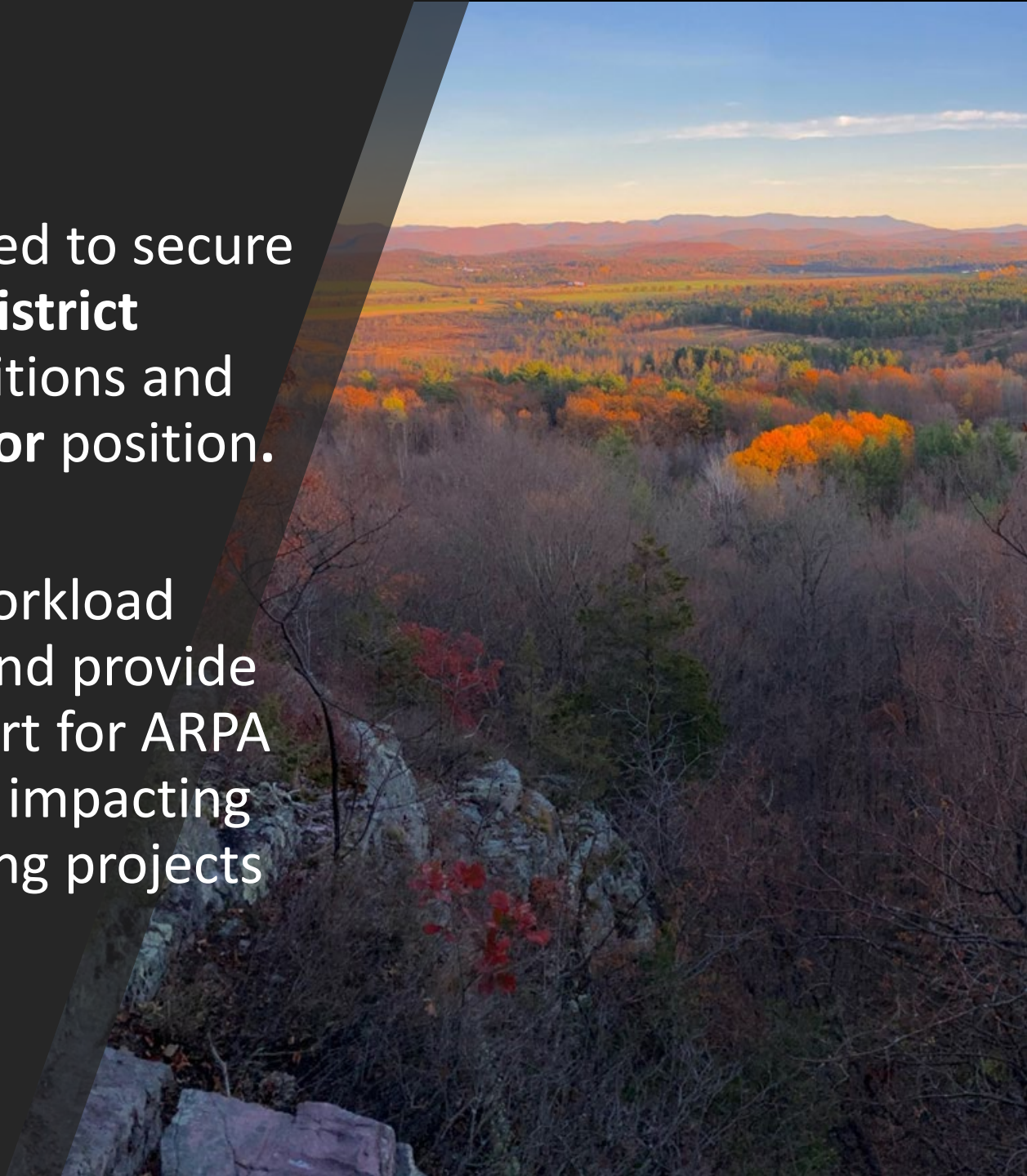
- **Annual budget (FY23):** \$3.28M
 - Personnel services (89%), and
 - Operating expenses (11%)
- **Funding Sources:**
 - Special Funds (80%)
 - Application fees and enforcement costs
 - General Fund (20%)
 - One-time, 3-year limited-service positions (3) funded through ARPA/SFR appropriation
- **FY24 request:**
 - \$3.48 M

ARPA Funds and NRB Updates



ARPA Funding:

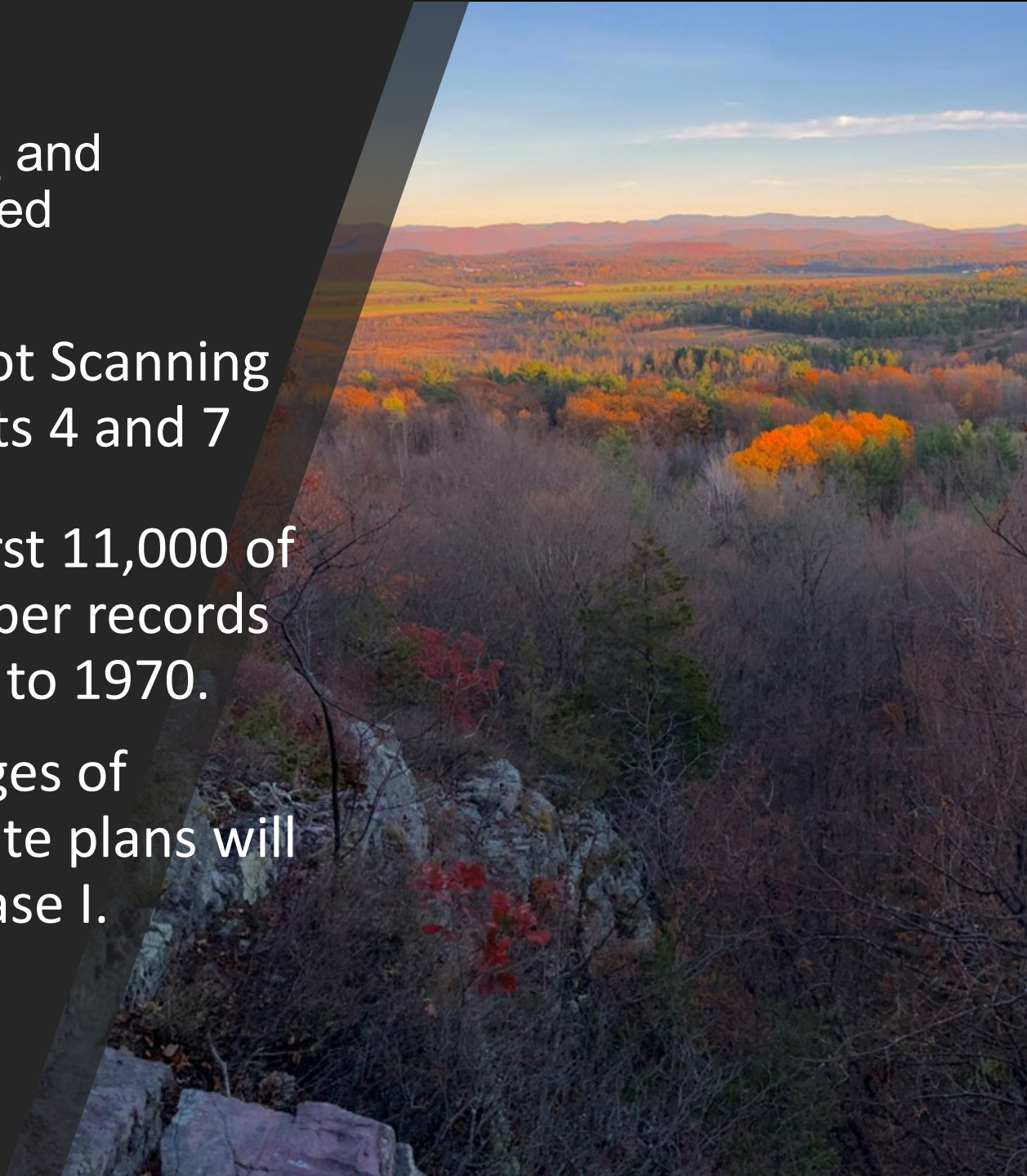
- ARPA funding used to secure two additional **District Coordinator** positions and **Executive Director** position.
- **Goal:** manage workload across districts and provide additional support for ARPA projects without impacting services to existing projects



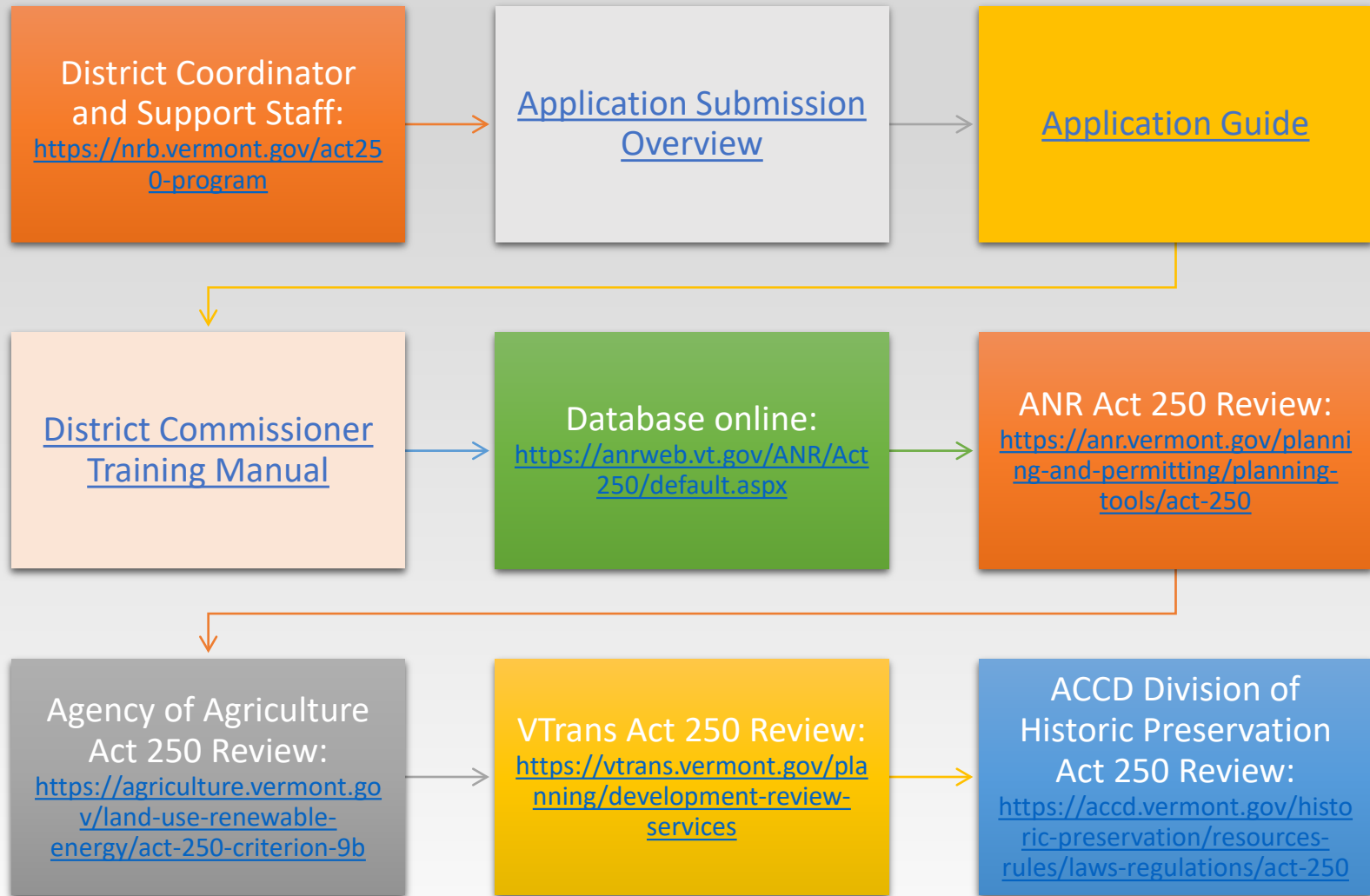
- Act 250 Database and Application Updated
- Commencing Pilot Scanning Project in Districts 4 and 7

Will scan the first 11,000 of over 35,000 paper records extending back to 1970.

2 million+/- pages of documents & site plans will go digital in Phase I.



RESOURCES



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Questions?