

**10 V.S.A. Chapter 220**  
**CONSOLIDATED ENVIRONMENTAL APPEALS**

**1. 10 V.S.A. § 8504. Appeals to the Environmental Division.**

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(b) **Planning and zoning chapter appeals.** Within 30 days of the date of the act or decision, an interested person, as defined in 24 V.S.A. § 4465, who has participated as defined in 24 V.S.A. § 4471 in the municipal regulatory proceeding under that chapter may appeal to the Environmental Division an act or decision made under that chapter by a board of adjustment, a planning commission, or a development review board; provided, that decisions of a development review board under 24 V.S.A. § 4420 with respect to local Act 250 review of municipal impacts are not subject to appeal but shall serve as presumptions under chapter 151 of this title.

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(g) **Consolidated appeals.** The Environmental Division may consolidate or coordinate different appeals where those appeals all relate to the same project. (EMPHASIS ADDED)

(h) **De Novo hearing.** The Environmental Division, applying the substantive standards that were applicable before the tribunal appealed from, shall hold a de novo hearing on those issues which have been appealed, except in the case of: (EMPHASIS ADDED)

(1) a decision being appealed on the record pursuant to 24 V.S.A. chapter 124;

(2) a decision of the Commissioner of Forests, Parks and Recreation under section 2625 of this title being appealed on the record, in which case the court shall affirm the decision, unless it finds that the Commissioner did not have reasonable grounds on which to base the decision.

(i) **Deference to Agency technical determinations.** In the adjudication of appeals relating to land use permits under chapter 151 of this title, technical determinations of the Secretary shall be accorded the same deference as they are accorded by a District Commission under subsection 6086(d) of this title.

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**COMMENTS.** Attached are the updated statistics concerning Act 250 appeals for the last five fiscal years, plus the current year to date.

The Environmental Division is directed to “construe and administer” its procedural rules “to ensure summary and expedited proceedings consistent with a full and fair determination in every matter coming before the court.” V.R.E.C.P. 1. The statistics show that most of the Act

250 appeals are adjudicated within the timelines established by the Supreme Court under the Disposition Guidelines.

Pursuant to 10 V.S.A. § 8504(g) the Environmental Division may coordinate different appeals that concern the same project. See V.R.E.C.P. 2(b). Many major or complex projects require Act 250 review, multiple municipal permit reviews, and multiple ANR permit reviews. The present judicial process allows the challenged projects to be heard and receive decisions, including Act 250 decisions, on a more efficient, coordinated timeframe than if the appeals were heard in separate trials before separate tribunals. The Court avoids duplication of proceedings and disparities in decisions. When appeals are coordinated for one project, it provides the parties the opportunity to confer and determine which appeals provide the areas of substantive concern. This may result in some of the appeals being dismissed, so that certain factual and substantive legal issues may be adjudicated in the remaining appeals at trial.

The Environmental Division of Superior Court also has the authority, through Civil Rule 16.3, to order parties to retain a mediator and attempt to resolve their legal disputes through a mediation process. Mediation provides parties a way to resolve major issues, and perhaps the entire case, without the need to expend additional time and resources.