



Administrative Directive No. 30

**Supreme Court
April Term, 2013**

ENVIRONMENTAL CASE DISPOSITION GUIDELINES

The management of the flow of cases in the Environmental Division of the Superior Court is the responsibility of the judiciary. In carrying out that responsibility, the judiciary must balance the rights and interests of individual litigants, the limited resources of the judicial branch and other participants in the justice system, and the interests of the citizens of this state in having an effective, fair, and efficient system of justice.

- A. The State Court Administrator and Administrative Judge for Trial Courts are directed, within available resources, to:
 - 1. Assist the Environmental Division of the Superior Court in implementing caseflow management plans that incorporate case processing time guidelines established pursuant to this directive;
 - 2. Gather information from the Environmental Division on compliance with case disposition guidelines; and
 - 3. Assess the effectiveness of management plans in achieving the guidelines established by this directive.

- B. The Environmental Division of the Superior Court is directed to:
 - 1. Maintain current caseflow management plans consistent with case processing time guidelines established in this directive;
 - 2. Collect and maintain accurate caseflow management data;
 - 3. Cooperate with the Administrative Judge for Trial Courts and Court Administrator's Office in assessing caseflow management plans implemented pursuant to this directive.

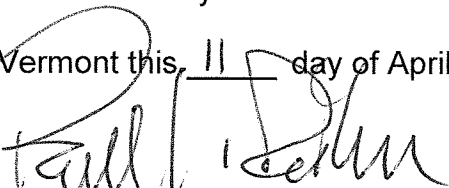
The following time guidelines for case processing are provided as goals for the administration of court caseloads. These guidelines do not supersede procedural requirements in court rules or statutes for specific cases, or supersede reporting requirements in court rules or statutes.

Environmental Case Disposition Guidelines


Case Type	Standard	Complex
On the Record Appeal	7 months	-
Municipal Enforcement – No notice of Violation or Appeal	5 months	-
Municipal Enforcement – Notice of Violation and/or Appeal	10 months	-
Municipal De Novo Appeal	10 months	12 months
ANR/NRB Enforcement No merits hearing required	90 days	-
ANR/NRB Enforcement - Contested	8 months	-
Act 250 Appeal and ANR <i>de novo</i> Appeal	11 months	13 months

This directive shall become effective immediately.

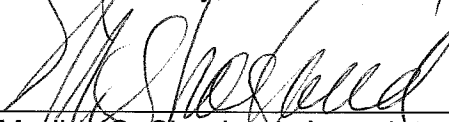
Done in Chambers at Montpelier, Vermont this, 11 day of April, 2013.



 Paul L. Reiber, Chief Justice




 John A. Dooley, Associate Justice



 Marilyn S. Skoglund, Associate Justice



 Brian L. Burgess, Associate Justice



 Beth Robinson, Associate Justice

E Court Case type: On-the-Record Appeal

0– 30 Days 1 Month	30 - 60 Days 2 Months	60 – 90 Days 3 Months	90 – 120 Days 4 Months	120 – 150 Days 5 Months	150 - 180 Days 6 Months	180 - 210 Days 7 Months
<p>Notice of Appeal Filed</p> <p>Docket number assigned</p> <p>Judge assigned</p> <p>Case entered into computer</p> <p>Initial letters sent</p> <p>Tracking system activated</p> <p>Interested Parties served</p> <p>Within 10 Days of filing, Appellant must order Transcript (copy of order is filed with Court)</p> <p>Within 20 Days of filing, 1)Appellant files SOQ; 2)Appearances Filed</p>	<p>Notice of Pre-Trial conference issued</p> <p>Initial Pre-Trial conference held with judge</p> <p>Scheduling Order issued</p> <p>Municipal Clerk/Officer Files the Record</p> <p>Any Cross Appeal must be filed</p>	<p>Mediation Complete (if ordered)</p>	<p>Appellant Brief filed</p> <p>Appellee Brief filed</p>	<p>Appellant Reply Brief filed</p> <p>Oral Argument (If Requested)</p>	<p>Under Advisement</p>	<p>Decision Issued</p>

Useful Abbreviations:
SOQ – Statement of Questions

Env. Court Case type: Municipal Enforcement Cases

Case Sub-Types	0 - 30 Days	30 - 60 Days 2 months	60 - 90 Days 3 months	90 - 120 Days 4 months	6 Months	7 months	9 months	10 months
1) Municipal enforcement action (no NOV issued or appeal filed.)	Docket number and judge assigned; service verified.	Conduct initial conference; issue Scheduling Order.	Set and conduct trial. (<u>Note</u> : only issues are penalties & injunctive relief.	Decision & JO issued.				
2) Appeal from Notice of Violation (NOV), With or without municipal enforcement action	[same]	[same]	Parties complete discovery process; stipulate to mediator	Results of mediation reported; conduct follow-up conference. Remaining discovery completed; Pre-trial motions filed.	Responsive memoranda filed; Motions U/A	Pretrial decisions issued; Trial set for any remaining issues.	Trial held (Historically 1-3 days). If enf. action also pending, must decide penalty and inj. relief claims, as well as NOV issues.	Decision & JO issued.

Useful Abbreviations:

NOV – Notice of Alleged Zoning Violation;

JO – Judgment Order

U/A – Under Advisement

Env. Court Case type: ANR/NRB Environmental Enforcement Cases

Case Sub-Types	0 to 30 Days	30 to 60 Days 2 months	60 to 90 Days 3 months	90 to 120 Days 4 months	120 – 180 Days 6 months	7 months	8 months
1) AOD (Stip. Settlement)	Docket # and judge assigned. (Interveners may appear w/i 15 days. If none, Issue Order).	If interveners appear, Court decides if merits hearing is necessary. If so, move to sub-type #4, below.					
2) AO-no hearing Requested/ UC	[same]; Service verified.	Issue Order, approving AO. (same rights of intervention)					
3) Emergency Orders requested (can be CC or UC)	[same & same]	Conduct hearing and issue Emergency Order w/i 10 days.					
4) AO – expedited hearing required (CC)	Confirm contest by R.; conduct initial conference w/i 10 days. R. is entitled to hearing w/i 30 days, unless waived; if no waiver, hold hearing. If R. waives, issue Scheduling Order.		If expedited hearing waived, then parties complete discovery & mediation.	Results of mediation reported; Final conference; Pre-trial motions filed.	Motions U/A; pretrial decisions issued; Remaining issues, if any set for trial	Trial held (historically 1-3 days of trial)	Decision & JO issued.

Useful Abbreviations:

AOD – Assurance of Discontinuance

AO – Administrative Order

CC – Contested Case

UC – Uncontested Case

R – Respondent

Env. Court Case type: Municipal De Novo Appeals¹

Classifications	0 to 30 Days	30 - 60 Days 2 months	60 - 90 Days 3 months	90 - 120 Days 4 months	120 to 180 Days 4 – 6 months	7 months	8 months	10 months	12 months
a.) “Expedited” appeals (i.e.: no detailed discovery or substantive motions).	Docket number and judge assigned; service verified. Notice of pre-trial conference issued.	conduct initial conference; Scheduling Order issued (may or may not include mediation) Any cross-appeal must be filed	Parties complete discovery process; stipulate to mediator.	Results of mediation reported; Remaining discovery completed; Parties asked to submit unavailable days for trial.	Trial held (usually not more than 1 day).	Decision & JO issued.			
b) Standard appeals (i.e.: detailed discovery, substantive pre-trial motions, or both).	[same as above]	[same as above]; Scheduling Order to also include pre-trial motion schedule	Preliminary motions and responses filed.	Preliminary issues decided: Dismiss, party status. Supplemental Scheduling Order issued.	Final pre-trial motions filed; Responsive memoranda filed; Motions Under Advisement	Pretrial decisions issued; Trial set for any remaining issues.	Trial held (Historically 1-3 days).	Decision & JO issued.	
c) Complex appeals (i.e.: Appeal from DRB/PC decision on subdivision).	[same as above]	[same as above]; if necessary because of number of parties, hold conference in-person.	Address coordination of multiple appeals	Preliminary Issues decided: Dismissal, party status. Parties complete discovery	Supplemental conference held Supplemental Scheduling Order issued.	Final pre-trial motions filed; Responsive memoranda filed; Motions Under Advisement	Pretrial decisions issued; Trial set for any remaining issues.	Trial held (Historically 1-8 days).	Decision & JO issued.

Useful Abbreviations:

JO - Judgment Order

¹ Appeals from appropriate municipal panels (i.e.: zoning boards of adjustment, development review boards and planning commissions; see 24 VSA §§ 4460 and 4471) include review of all different types of municipal permit applications. The majority of the de novo appeals of municipal permit applications fall into four general categories: (1) appeals from a zoning administrator’s determination of whether a proposed project is permitted under the ordinance; (2) appeals from decisions on variance or waiver requests; (3) appeals from subdivision decisions; and (4) appeals from decisions on conditional use and site plan applications. Although the nature of the application can affect the timeline to disposition, most de novo appeals can follow a similar timeline to disposition, depending upon whether (a) detailed discovery is requested or substantive pre-trial motions are filed; (b) the de novo appeal follows an “expedited” track (i.e.: no detailed discovery or substantive pre-trial motions); or (c) the appeal is “complex” (i.e.: coordinated with one or more other municipal and state permit appeals or involving 15 or more parties.

E Court Case type: Act 250 and ANR de novo Appeal – Standard Matter

0 – 30 Days 1 Month	30 – 60 Days 2 Months	60 – 90 Days 3 Months	90 – 120 Days 4 Months	120 – 150 Days 5 Months	150 - 180 Days 6 Months	7 Months	8 Months	9 Months	10 Months	11 Months					
Notice of Appeal Filed Docket number assigned Judge assigned Case entered into computer Initial letters sent Tracking system activated Interested Parties served Appellant Publishes Notice of Appeal if required Within 20 Days of filing, 1) Appellant files SOQ; 2) Appearances Filed	Notice of Pre-Trial conference issued Initial pre-trial conference held with judge Scheduling Order issued (Includes Mediation) Any Cross Appeal must be filed Preliminary Issues decided: (Dismiss, Party Status...)	Supplemental Scheduling Order Issued after preliminary issues decided – set deadline for motions for summary judgment filing	Mediation Complete (if ordered) Discovery complete	A) No MSJ – Trial Ready – Notice of Hearing issued	Proposed FCO Filed Hearing held	Under Advisement	Decision Issued								
				B) Motion for Summary Judgment filed	Response to Motion for Summary Judgment						MSJ Under Advisement & Decision Issued	i) Appeal Complete			
												ii) Trial Ready – Notice of Hearing Issued			

Useful Abbreviations:

MSJ – Motion for Summary Judgment;

SOQ – Statement of Questions;

FCO – Proposed Findings of Fact and Conclusions of Law

E Court Case type: Act 250 and ANR de novo Appeal – Complex Matter¹

0 – 30 Days 1 Month	30 - 60 Days 2 Months	60 – 90 Days 3 Months	90 – 120 Days 4 Months	120 – 180 Days 6 Months	7 Months	8 Months	9 Months	10 Months	11 Months	12 Months	13 Months
Notice of Appeal Filed	Notice of Pre-Trial conference issued	Opposition to Preliminary Motions filed	Decision on Preliminary Motions	Mediation Complete (if ordered)	A) No MSJ – Trial Ready – Notice of Hearing issued	Proposed FCO Filed	Under Advise-ment	Decision Issued			
Docket number assigned	Initial pre-trial conference held with judge	Preliminary Motions Under Advise-ment	Supplemental Scheduling Order Issued – set deadline for motions for summary judgment filing	Discovery complete		Hearing Held					
Judge assigned	Scheduling Order issued (Includes Mediation)										
Case entered into computer	Any Cross Appeal must be filed										
Initial letters sent	Preliminary Motions filed: -dismiss appeal, party, or SOQ -Clarify SOQ										
Tracking system activated					B) Motion for Summary Judgment Filed	Response to Motion for Summary Judgment	MSJ Under Advise-ment & Decision Issued	i) Appeal Complete			
Interested Parties served								ii) Trial Ready – Notice of Hearing Issued	Proposed FCO Filed	Under Advise-ment	Decision Issued
Appellant Publishes Notice of Appeal if required											
Within 20 Days of filing, 1) Appellant files SOQ; 2) Appearances Filed											

Useful Abbreviations:

MSJ – Motion for Summary Judgment;

SOQ – Statement of Questions;

FCO – Proposed Findings of Fact and Conclusions of Law

¹Complex due to being coordinated with related appeal (ANR or Municipal appeal), multiple parties, or five or more criteria at issue.