

Act 250 Overview

House Natural Resources, Fish & Wildlife
Committee
January 11, 2017

Vermont Natural Resources Board

Diane B. Snelling, Chair

Gregory Boulbol, General Counsel



What is Act 250?

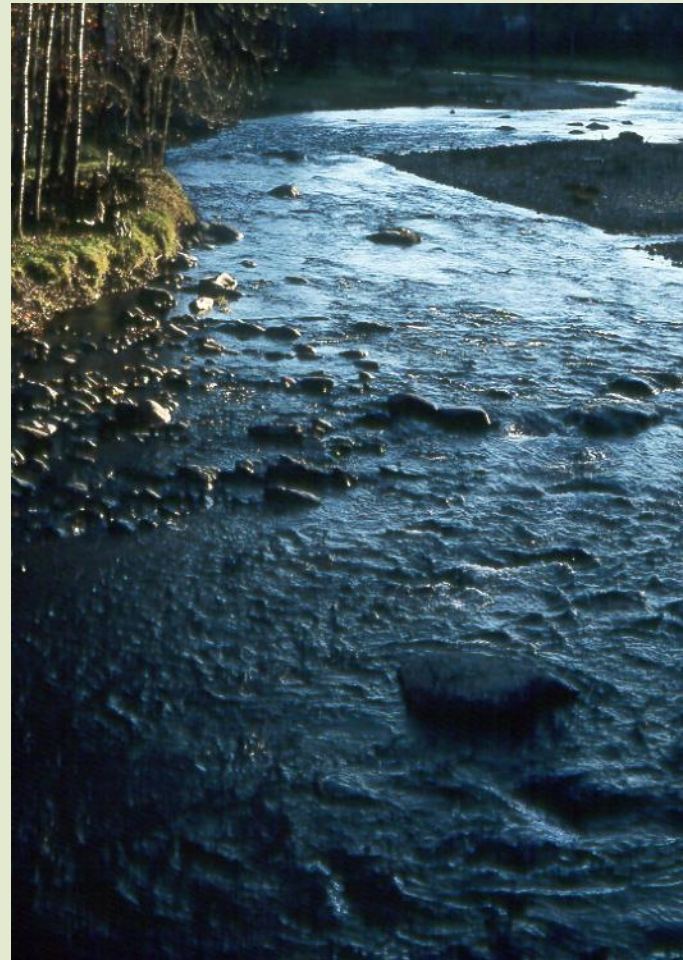
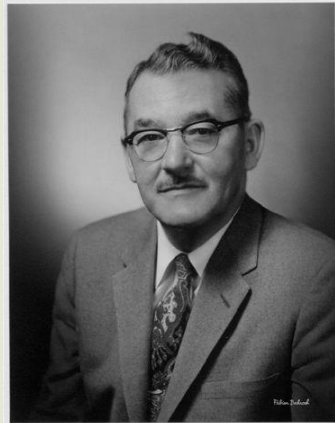
Act 250 is a law which provides for a citizen-based, quasi-judicial process for reviewing and managing the environmental and fiscal consequences of major subdivisions and developments in Vermont.





Act 250 (a brief history)

In 1969 Gov. Deane Davis and others became concerned about pollution of Vermont's groundwater and streams from new development, especially in and around ski areas in southern Vermont .







Act 250 (a brief history, contd.)

After hearings by the Gibb Commission and statewide debate the Vermont legislature passed a law to regulate certain kinds of development at the state level, in addition to any existing local review



Natural Resources Board

NRB Chair

Natural Resources Board (4)

Alternate NRB Members (5)

General Counsel

Executive Director

Administration
Manager

Legal Staff (2)

Administrative Staff (2)

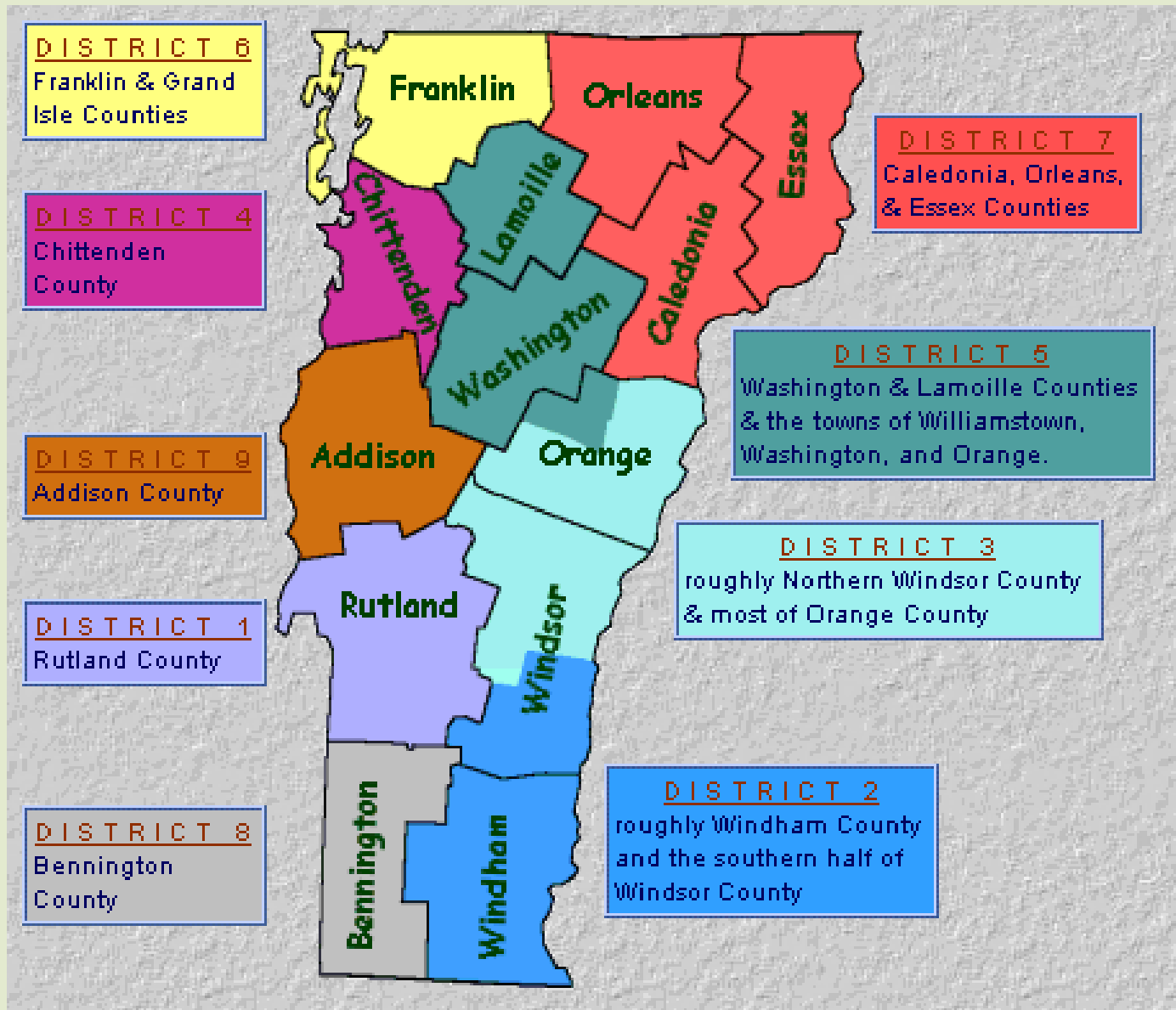
Permit Compliance Officer

Five Regional Act 250 Offices

- 9 District Coordinators
- 2 Asst. District Coordinators
- 7 Administrative Staff

- 9 District Environmental Commissions
- Members appointed by Governor (63)
- Serve 2 – 4 years terms

9 Environmental Districts – Five Offices



District Offices:

- Essex Junction
- Barre
- St. Johnsbury
- Springfield
- Rutland

District Commission and Staff

District Commission

- Quasi-judicial body
- Members appointed by Governor, not full-time employees
- Three regular members, up to four alternates
- Three commissioners sit on each case

District Coordinator

- Full-time staff to District Commission
- Provides assistance to applicants, parties, and the general public
- All communications to the District Commission must be submitted to coordinator

District Office Support Staff

- Provide clerical and administrative support

Act 250 Jurisdiction

Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations.



Act 250 Jurisdiction (contd.)

Commercial development

on more than 1 acre or more than 10 acres depending on the town.



Act 250 Jurisdiction (contd.)

State and municipal projects >10 acres disturbance



Act 250 Jurisdiction (contd.)

Housing projects with 10 or more units (higher thresholds for Priority Housing in certain designated centers)



Act 250 Jurisdiction (contd.)

- Communication towers > 50 feet in height



Act 250 Jurisdiction (contd.)

Commercial or residential development or forestry/farming
above 2,500 feet.



Act 250 Jurisdiction (contd.)

- Material change to an Act 250 permitted project
- Substantial changes to pre-existing (pre-1970) projects
- Any withdrawal of more than 340,000 gallons of groundwater per day, if the withdrawal requires a permit under section 1418 of this title or is by a bottled water facility regulated under chapter 56 of this title.
- Exploration for fissionable source materials beyond the reconnaissance phase or the extraction or processing of fissionable source material.
- The drilling of an oil and gas well.

Act 250 Exemptions

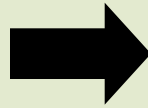
- Farming and logging below 2,500 feet
- Electric generation and transmission facilities and telecommunications projects regulated by PSB (Sec. 248 and 248a)
- Agricultural fairs and horse shows; no buildings; open to public for < 61 days per year
- Small scale and on-farm composting

Jurisdictional Opinion Process

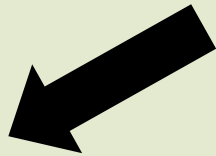
- JO Issued by District Coordinator (Letter form or Project Review Sheet)
- Reconsideration by Coordinator within 30 days
- Appeal to Environmental Division, Superior Court, within 30 days

Application Review Process

**Completeness Review
by District Coordinator**



**Application to Commission
for Major/Minor
Determination**



Major - 20%

Hearing scheduled

Minor - 80%

No hearing scheduled unless
requested by a party by deadline --
generally 3 weeks

Application Review Process

Major

Notice Mailed and Published in Newspaper
Within 10 days of filing of complete application

Hearing or Prehearing; Site Visit
Within 40 days of filing of complete application;
not less than 10 days from publication of notice

Hearing Recess Order
Within 14 days of hearing

Last Recess Item Received by Commission

Deliberations and Issuance of Decision
Within 20 Days of receipt of last item, last permit
or completion of deliberations

Application Review Process

Minor

Notice and Proposed Permit Mailed and Published
Within 10 days of filing of complete application

Comment Period for Hearing Request
7 - 20 days



If No Hearing Request:
Commission issues
decision after last permit
or other evidence
received
10 Days

If Hearing is Requested:
Application is processed
as major; hearing is scheduled
Within 20 days of end of
public comment period

Act 250 Party Status (how to get involved)

§ 6085. Hearings; party status

- (c)(1) Party status. In proceedings before the district commissions, the following persons shall be entitled to party status:**
- (A) The applicant;**
 - (B) The landowner, if the applicant is not the landowner;**
 - (C) The municipality in which the project site is located, and the municipal and regional planning commissions for that municipality; if the project site is located on a boundary, any Vermont municipality adjacent to that border and the municipal and regional planning commissions for that municipality; and the solid waste management district in which the land is located, if the development or subdivision constitutes a facility pursuant to subdivision 6602(10) of this title;**
 - (D) Any state agency affected by the proposed project;**
 - (E) Any adjoining property owner or other person who has a particularized interest protected by this chapter that may be affected by an act or decision by a district commission.**

Act 250: The 10 Criteria

1. Air and Water Pollution
2. Water Supply
3. Impact on Existing Water Supplies
4. Soil Erosion
5. Traffic Safety and Congestion
6. Impact on Schools
7. Impact on Municipal Services
8. Wildlife, Historic Sites, and Aesthetics
9. Impact of Growth
10. Conformance with Local and Regional Plans

Resources (For Act 250)

- District Coordinator and Support Staff
- Natural Resources Board Administrative and Legal Staff
- Training Manual (on web site)
- Web site: www.nrb.state.vt.us
 - Will be updating this year
 - Staff addresses, phone #, email
 - Statute and Act 250 Rules
 - Environmental Board Decisions (1980 - 2008)
 - District Commission Cases (ANR Database)
 - www.nrb.state.vt.us/nrb/lup
 - E-Note Index

Thanks.
Questions?