

1 possible, the Board membership includes the racial, ethnic, gender, and
2 geographic diversity of the State.

3 ~~(B) Following initial appointments, the members, except for the~~
4 ~~Chair, shall be appointed for terms of four years.~~

5 ~~(2) The Governor shall appoint up to five persons, with preference given~~
6 ~~to former Environmental Board, Natural Resources Board, or District~~
7 ~~Commission members, with the advice and consent of the Senate, to serve as~~
8 ~~alternates for Board members.~~

9 ~~(A) Alternates shall be appointed for terms of four years, with initial~~
10 ~~appointments being staggered.~~

11 ~~(B) The Chair of the Board may assign alternates to sit on specific~~
12 ~~matters before the Board, in situations where fewer than five members are~~
13 ~~available to serve.~~

14 ~~(b) Any vacancy occurring in the membership of the Board shall be filled~~
15 ~~by the Governor for the unexpired portion of the term. Terms; vacancy;~~
16 ~~succession. The term of each appointment subsequent to the initial~~
17 ~~appointments described in subdivision (a)(2) of this section shall be four years.~~
18 ~~Any appointment to fill a vacancy shall be for the unexpired portion of the~~
19 ~~term vacated. A member wishing to succeed himself or herself in office may~~
20 ~~seek reappointment under the terms of this section.~~

1 (c) Removal. Notwithstanding the provisions of 3 V.S.A. § 2004, members
2 shall be removable for cause only, except the Chair, who shall serve at the
3 pleasure of the Governor.

4 (d) ~~The Chair of the Board, upon request of the Chair of a District~~
5 ~~Commission, may appoint and assign former Commission members to sit on~~
6 ~~specific Commission cases when some or all of the regular members and~~
7 ~~alternates of the District Commission are disqualified or otherwise unable to~~
8 ~~serve. Use of alternates. When a member of the Board is unavailable to hear a~~
9 ~~case, the Chair may appoint an alternate member to hear the case. Retirement~~
10 ~~from office. When a Board member who hears all or a substantial part of a~~
11 ~~case retires from office before the case is completed, he or she shall remain a~~
12 ~~member of the Board for the purpose of concluding and deciding that case and~~
13 ~~signing the findings and judgments involved. A retiring Chair shall also~~
14 ~~remain a member for the purpose of certifying questions of law if a party~~
15 ~~appeals to the Supreme Court.~~

16 (e) Completion of case. A case shall be deemed completed when the Board
17 enters a final decision even though that decision is appealed to the Supreme
18 Court and remanded by that Court.

19 (f) Court of record; jurisdiction. The Board shall have the powers of a
20 court of record in the determination and adjudication of all matters within its
21 jurisdiction. It may initiate proceedings on any matter within its jurisdiction.

1 It may render judgments and enforce the same by any suitable process issuable
2 by courts in this State. An order issued by the Board on any matter within its
3 jurisdiction shall have the effect of a judicial order. The Board’s jurisdiction
4 shall include:

5 (1) the issuance of declaratory rulings on the applicability of this chapter
6 and rules or orders issued under this chapter, pursuant to 3 V.S.A. § 808; and

7 (2) the issuance of decisions on appeals pursuant to section 6089 and
8 chapter 219 of this title.

9 (g) Hearing officers. One Board member or any officer or employee of the
10 Board duly appointed by the Chair of the Board may inquire into and examine
11 any matter within the jurisdiction of the Board.

12 (1) A hearing officer may hold any hearing on any matter within the
13 jurisdiction of the Board.

14 (2) Hearings conducted by a hearing officer shall be in accordance with
15 3 V.S.A. §§ 809–814. A hearing officer may administer oaths and exercise the
16 powers of the Board necessary to hear and determine a matter for which the
17 officer was appointed. A hearing officer shall report his or her findings of fact
18 in writing to the Board in the form of a proposal for decision. A copy shall be
19 served upon the parties pursuant to 3 V.S.A. § 811. However, judgment on
20 those findings shall be rendered only by a majority of the Board.

21 § 6022. PERSONNEL

1 (a) Regular personnel. The Board may ~~appoint~~ retain legal counsel,
2 scientists, engineers, experts, investigators, temporary employees, and
3 administrative personnel; as it finds necessary in carrying out its duties, unless
4 the Governor shall otherwise provide and may authorize the District
5 Commissions to use funds to retain personnel to assist on matters within its
6 jurisdiction, including oversight and monitoring of permit compliance.
7 Personnel employed by the District Commissions pursuant to this subsection,
8 shall not report to the Board.

9 (b) Personnel for particular proceedings.

10 (1) Retention.

11 (A) The Board may authorize or retain legal counsel, official
12 stenographers, expert witnesses, advisors, temporary employees, and other
13 research services:

14 (i) to assist the Board in any proceeding before it under this
15 chapter or chapter 219 of this title; and

16 (ii) to monitor compliance with any formal opinion of the Board
17 or a District Commission.

18 (B) The personnel authorized by this section shall be in addition to
19 the regular personnel of the Board. The Board shall fix the amount of
20 compensation and expenses to be paid to such additional personnel.

21 (2) Assessment of costs.

1 (a) The Board may adopt rules of procedure for itself and the District
2 Commissions. The Board shall adopt rules of procedure that govern appeals
3 and other contested cases before it and are consistent with this chapter and
4 chapter 219 of this title.

5 (b) The Board may adopt substantive rules, in accordance with the
6 provisions of 3 V.S.A. chapter 25, that interpret and carry out the provisions of
7 this chapter. These rules shall include provisions that establish criteria under
8 which applications for permits under this chapter may be classified in terms of
9 complexity and significance of impact under the standards of subsection
10 6086(a) of this chapter. In accordance with that classification, the rules may:

11 (1) provide for simplified or less stringent procedures than are otherwise
12 required under sections 6083, 6084, and 6085 of this chapter;

13 (2) provide for the filing of notices instead of applications for the
14 permits that would otherwise be required under section 6081 of this chapter;
15 and

16 (3) provide a procedure by which a District Commission may authorize
17 a district coordinator to issue a permit that the District Commission has
18 determined under ~~Natural Resources~~ Board rules is a minor application with no
19 undue adverse impact.

20 * * *

21 § 6026. DISTRICT COMMISSIONERS

1 (a) For the purposes of the administration of this chapter, the State is
2 divided into nine districts.

3 * * *

4 (b) A District Environmental Commission is created for each district. Each
5 District Commission shall consist of three members from that district
6 appointed in the month of February by the Governor so that two appointments
7 expire in each odd-numbered year. Two of the members shall be appointed for
8 a term of four years, and the Chair (third member) of each District shall be
9 appointed for a two-year term. In any district, the Governor may appoint not
10 more than four alternate members from that district whose terms shall not
11 exceed two years, who may hear any case when a regular member is
12 disqualified or otherwise unable to serve. The Governor shall ensure, to the
13 extent possible, each District Commission includes the racial, ethnic, gender,
14 and geographic diversity of the State.

15 (c) Members shall be removable for cause only, except the Chair, who shall
16 serve at the pleasure of the Governor.

17 (d) Any vacancy shall be filled by the Governor for the unexpired period of
18 the term.

19 (e) The Chair of the Board, upon request of the Chair of a District
20 Commission, may appoint and assign former Commission members to sit on
21 specific Commission cases when some or all of the regular members and

1 alternates of the District Commission are disqualified or otherwise unable to
2 serve.

3 § 6027. POWERS

4 (a) The Board and District Commissions shall have supervisory authority in
5 environmental matters respecting projects within their jurisdiction and shall
6 apply their independent judgment in determining facts and interpreting law.

7 They each shall have the power, with respect to any matter within its
8 jurisdiction, to:

9 (1) administer oaths, take depositions, subpoena and compel the
10 attendance of witnesses, and require the production of evidence;

11 (2) allow parties to enter upon lands of other parties for the purposes of
12 inspecting and investigating conditions related to the matter before the Board
13 or Commission;

14 (3) enter upon lands for the purpose of conducting inspections,
15 investigations, examinations, tests, and site evaluations as it deems necessary
16 to verify information presented in any matter within its jurisdiction; and

17 (4) apply for and receive grants from the federal government and from
18 other sources.

19 (b) The powers granted under this chapter are additional to any other
20 powers ~~which~~ that may be granted by other legislation.

1 (c) The ~~Natural Resources~~ Board may designate or establish such regional
2 offices as it deems necessary to implement the provisions of this chapter and
3 the rules adopted hereunder. The ~~Natural Resources~~ Board may designate or
4 require a regional planning commission to receive applications, provide
5 administrative assistance, perform investigations, and make recommendations.

6 (d) At the request of a District Commission, if the Board Chair determines
7 that the workload in the requesting district is likely to result in unreasonable
8 delays or that the requesting District Commission is disqualified to hear a case,
9 the Chair may authorize the District Commission of another district to sit in the
10 requesting district to consider one or more applications.

11 (e) The ~~Natural Resources~~ Board may by rule allow joint hearings to be
12 conducted with specified State agencies or specified municipalities.

13 (f) The Board may publish or contract to publish annotations and indices of
14 its decisions and the decisions of the Environmental Division, and the text of
15 those decisions. The published product shall be available at a reasonable rate
16 to the general public and at a reduced rate to libraries and governmental bodies
17 within the State.

18 (g) The ~~Natural Resources~~ Board shall manage the process by which land
19 use permits are issued under section 6086 of this title, may initiate enforcement
20 on related matters; under the provisions of chapters 201 and 211 of this title,

1 and may petition the Environmental Division for revocation of land use
2 permits issued under this chapter. Grounds for revocation are:

3 (1) noncompliance with this chapter, rules adopted under this chapter, or
4 an order that is issued that relates to this chapter;

5 (2) noncompliance with any permit or permit condition;

6 (3) failure to disclose all relevant and material facts in the application or
7 during the permitting process;

8 (4) misrepresentation of any relevant and material fact at any time;

9 (5) failure to pay a penalty or other sums owed pursuant to, or other
10 failure to comply with, court order, stipulation agreement, schedule of
11 compliance, or other order issued under Vermont statutes and related to the
12 permit; or

13 (6) failure to provide certification of construction costs, as required
14 under subsection 6083a(a) of this title, or failure to pay supplemental fees as
15 required under that section.

16 (h) The ~~Natural Resources~~ Board may hear appeals of fee refund requests
17 under section 6083a of this title.

18 (i) The Chair, subject to the direction of the Board, shall have general
19 charge of the offices and employees of the Board and the offices and
20 employees of the District Commissions.

1 (j) The ~~Natural Resources~~ Board may participate as a party in all matters
2 before the Environmental Division that relate to land use permits issued under
3 this chapter.

4 * * *

5 § 6028. COMPENSATION

6 Members of the ~~Board and~~ District Commissions shall receive per diem pay
7 of \$100.00 and all necessary and actual expenses ~~in accordance with 32 V.S.A.~~
8 ~~§1010.~~

9 * * *

10 § 6030. ~~MAP OF WIRELESS TELECOMMUNICATIONS FACILITIES~~
11 CAPABILITY AND DEVELOPMENT MAPS

12 ~~The Board shall maintain a map that shows the location of all wireless~~
13 ~~telecommunications facilities in the State.~~

14 (a) Updates. On or before January 1, 2021, the Board and the Secretaries
15 of Commerce and Community Development, of Digital Services, of
16 Agriculture, Food and Markets, and of Natural Resources shall complete an
17 update to the capability and development maps created under this chapter in
18 1971 for reference in applying this chapter. Maps updated pursuant to this
19 section shall be consistent with the Capability and Development Plan and shall
20 include and identify environmental constraints, existing settlements, rural and
21 working lands areas, critical resource areas, facilities and infrastructure, and

1 management of those areas for wildlife habitat, water quality, timber
2 production, recreation, or other values or functions identified by the regional
3 planning commission.

4 (G) Indicates those areas that constitute critical resource areas as
5 defined in 10 V.S.A. § 6001.

6 * * *

7 Sec. 9. 24 V.S.A. § 4382 is amended to read:

8 § 4382. THE PLAN FOR A MUNICIPALITY

9 (a) A plan for a municipality ~~may~~ shall be consistent with the goals
10 established in section 4302 of this title and compatible with approved plans of
11 other municipalities in the region and with the regional plan and shall include
12 the following:

13 * * *

14 * * * Appeals * * *

15 Sec. 10. REPEAL

16 10 V.S.A. chapter 220 (consolidated environmental appeals) is repealed.

17 Sec. 11. 10 V.S.A. chapter 219 is added to read:

18 CHAPTER 219. STATE ENVIRONMENTAL PERMIT APPEALS

19 § 8401. PURPOSE

20 It is the purpose of this chapter to:

1 (1) create an administrative board to hear and decide appeals under this
2 chapter with respect to State environmental permits;

3 (2) consolidate appeal routes for acts or decisions of the District
4 Commissions and the Secretary;

5 (3) standardize the appeal periods, the parties who may appeal these acts
6 or decisions, and the ability to stay any act or decision upon appeal, taking into
7 account the nature of the different programs affected;

8 (4) encourage people to get involved in the permitting process at the
9 initial stages of review by requiring participation as a prerequisite for an appeal
10 of a decision to the Vermont Environmental Review Board; and

11 (5) provide clear appeal routes for acts and decisions of the Secretary.

12 § 8402. DEFINITIONS

13 As used in this chapter:

14 (1) “Board” means the Vermont Environmental Review Board
15 established under chapter 151 of this title.

16 (2) “District Commission” means a district commission established
17 under chapter 151 of this title.

18 (3) “Person” means any individual, partnership, company, corporation,
19 association, unincorporated association, joint venture, trust, municipality, the
20 State of Vermont or any agency, department, or subdivision of the State, any
21 federal agency, or any other legal or commercial entity.

1 (4) “Person aggrieved” means a person who alleges an injury to a
2 particularized interest protected by the provisions of law listed in section 8410
3 of this title, attributable to an act or decision by a district coordinator, District
4 Commission, the Secretary, or the Board that can be redressed by the Board or
5 the Supreme Court.

6 (5) “Secretary” means the Secretary of Natural Resources or the
7 Secretary’s duly authorized representative. For the purposes of this chapter,
8 “Secretary” shall also mean the Commissioner of Environmental Conservation,
9 the Commissioner of Forests, Parks and Recreation, and the Commissioner of
10 Fish and Wildlife, with respect to those statutes that refer to the authority of
11 that commissioner or the department overseen by that commissioner.

12 § 8403. APPLICABILITY

13 (a) This chapter shall govern all appeals of an act or decision of the
14 Secretary, excluding appeals of enforcement actions under chapters 201 and
15 211 of this title and rulemaking, under:

16 (1) The following provisions of this title:

17 (A) chapter 23 (air pollution control);

18 (B) chapter 50 (aquatic nuisance control);

19 (C) chapter 41 (regulation of stream flow);

20 (D) chapter 43 (dams);

21 (E) chapter 47 (water pollution control);

- 1 (F) chapter 48 (groundwater protection);
- 2 (G) chapter 53 (beverage containers; deposit-redemption system);
- 3 (H) chapter 55 (aid to municipalities for water supply and water
- 4 pollution abatement and control);
- 5 (I) chapter 56 (public water supply);
- 6 (J) chapter 59 (underground and aboveground liquid storage tanks);
- 7 (K) chapter 64 (potable water supply and wastewater system permit);
- 8 (L) section 2625 (regulation of heavy cutting);
- 9 (M) chapter 123 (protection of endangered species);
- 10 (N) chapter 159 (waste management);
- 11 (O) chapter 37 (wetlands protection and water resources
- 12 management);
- 13 (P) chapter 166 (collection and recycling of electronic devices);
- 14 (Q) chapter 164A (collection and disposal of mercury-containing
- 15 lamps);
- 16 (R) chapter 32 (flood hazard areas);
- 17 (S) chapter 49A (lake shoreland protection standards);
- 18 (T) chapter 83, subchapter 8 (importation of firewood); and
- 19 (U) chapter 168 (product stewardship for primary batteries and
- 20 rechargeable batteries);
- 21 (2) 29 V.S.A. chapter 11 (management of lakes and ponds); and

1 (3) 24 V.S.A. chapter 61, subchapter 10 (salvage yards).

2 (b) This chapter shall govern all appeals from an act or decision of a
3 District Commission under chapter 151 of this title.

4 (c) This chapter shall govern all appeals from a district coordinator
5 jurisdictional opinion under chapter 151 of this title.

6 (d) This chapter shall govern all appeals from an act or decision of the
7 Board under this chapter.

8 (e) This chapter shall not govern appeals from enforcement actions under
9 chapters 201 and 211 of this title or from rulemaking decisions by the Board or
10 the Secretary.

11 § 8404. APPEALS

12 (a) Person aggrieved; time period. Any person aggrieved by an act or
13 decision of the Secretary, a District Commission, or a district coordinator
14 under the provisions of law listed in section 8403 of this title may appeal to the
15 Board within 30 days following the date of the act or decision.

16 (b) Notice of the filing of an appeal.

17 (1) On filing an appeal from an act or decision of a District
18 Commission, the appellant shall notify all parties who had party status as of the
19 end of the District Commission proceeding and all friends of the Commission
20 that an appeal is being filed. In addition, the appellant shall publish notice not
21 more than 10 days after providing notice as required under this subsection, at

1 the appellant's expense, in a newspaper of general circulation in the area of the
2 project that is the subject of the decision.

3 (2) On the filing of an appeal from the act or decision of the Secretary
4 under the provisions of law listed in section 8403 of this title, the appellant
5 shall provide notice of the filing of an appeal to the following persons: the
6 applicant before the Agency of Natural Resources, if other than the appellant;
7 the owner of the land where the project is located if the applicant is not the
8 owner; the municipality in which the project is located; the municipal and
9 regional planning commissions for the municipality in which the project is
10 located; if the project site is located on a boundary, any adjacent Vermont
11 municipality and the municipal and regional planning commissions for that
12 municipality; any State agency affected; the solid waste management district in
13 which the project is located, if the project constitutes a facility pursuant to
14 subdivision 6602(10) of this title; all persons required to receive notice of
15 receipt of an application or notice of the issuance of a draft permit; and all
16 persons on any mailing list for the decision involved. In addition, the appellant
17 shall publish notice not more than 10 days after providing notice as required
18 under this subsection, at the appellant's expense, in a newspaper of general
19 circulation in the area of the project that is the subject of the decision.

20 (c) Requirement to participate before the District Commission or the
21 Secretary.

1 (1) Participation before District Commission. An aggrieved person shall
2 not appeal an act or decision that was made by a District Commission unless
3 the person was granted party status by the District Commission pursuant to
4 subdivision 6085(c)(1)(E) of this title, participated in the proceedings before
5 the District Commission, and retained party status at the end of the District
6 Commission proceedings. In addition, the person may only appeal those issues
7 under the criteria with respect to which the person was granted party status.
8 However, notwithstanding these limitations, an aggrieved person may appeal
9 an act or decision of the District Commission if the Board determines that:

10 (A) there was a procedural defect that prevented the person from
11 obtaining party status or participating in the proceeding;

12 (B) the decision being appealed is the grant or denial of party status;
13 or

14 (C) some other condition exists that would result in manifest injustice
15 if the person's right to appeal was disallowed.

16 (2) Participation before the Secretary.

17 (A) An aggrieved person shall not appeal an act or decision of the
18 Secretary unless the person submitted to the Secretary a written comment
19 during the comment period or an oral comment at the public meeting
20 conducted by the Secretary. In addition, the person may only appeal issues
21 related to the person's comment to the Secretary.

1 (i) To be sufficient for the purpose of appeal, a comment to the
2 Secretary shall identify each reasonably ascertainable issue with enough
3 particularity so that a meaningful response can be provided.

4 (ii) The appellant shall identify each comment that the appellant
5 submitted to the Secretary that identifies or relates to an issue raised in his or
6 her appeal.

7 (iii) A person moving to dismiss an appeal or an issue raised by an
8 appeal pursuant to this subdivision (A) shall have the burden to prove that the
9 requirements of this subdivision (A) are not satisfied.

10 (B) Notwithstanding the limitations of subdivision (2)(A) of this
11 subsection (c), an aggrieved person may appeal an act or decision of the
12 Secretary if the Board determines that:

13 (i) there was a procedural defect that prevented the person from
14 commenting during the comment period or at the public meeting or otherwise
15 participating in the proceeding;

16 (ii) the Secretary did not conduct a comment period and did not
17 hold a public meeting;

18 (iii) the person demonstrates that an issue was not reasonably
19 ascertainable during the review of an application or other request that led to the
20 Secretary's act or decision; or

1 (iv) some other condition exists that would result in manifest
2 injustice if the person’s right to appeal was disallowed.

3 (d) District coordinator jurisdictional opinions.

4 (1) The appellant shall provide notice of the filing of an appeal to each
5 person entitled to notice under subdivisions 6085(c)(1)(A)–(D) of this title and
6 to each person on a list pursuant to subdivision 6085(c)(1)(E) of this title that
7 is approved under subsection 6007(c) of this title.

8 (2) Failure to appeal within the time required under subsection (a) of
9 this section shall render the jurisdictional opinion the final determination
10 regarding jurisdiction under chapter 151 of this title unless the opinion was not
11 properly served on persons listed in subdivisions 6085(c)(1)(A)–(D) of this
12 title and each person on a list pursuant to subdivision 6085(c)(1)(E) of this title
13 that is approved under subsection 6007(c) of this title.

14 (e) Stays.

15 (1) The filing of an appeal shall automatically stay the act or decision in
16 the following situations:

17 (A) acts or decisions involving stream alteration permits or shoreline
18 encroachment permits issued by the Secretary; and

19 (B) the denial of party status by a District Commission.

20 (2) On petition by a party or upon its own motion for a stay of an act or
21 decision, the Board shall perform the initial review of the request and may

1 grant a stay. Any decision under this subsection to issue a stay shall be subject
2 to appeal to the Supreme Court according to the Rules of Appellate Procedure.

3 (f) Consolidated appeals. The Board may consolidate or coordinate
4 different appeals where those appeals all relate to the same project.

5 (g) De novo. The Board, applying the substantive standards that were
6 applicable to the District Commission, district coordinator, or Secretary, shall
7 hear and review de novo those issues that have been appealed. The Board shall
8 apply its independent judgement in finding facts and interpreting law.

9 (h) Appeals of authorizations or coverage under a general permit. Any
10 appeal of an authorization or coverage under the terms of a general permit shall
11 be limited in scope to whether the permitted activity complies with the terms
12 and conditions of the general permit.

13 (i) Limitations on appeals. Notwithstanding any other provision of this
14 section:

15 (1) there shall be no appeal from a District Commission decision when
16 the Commission has issued a permit and no hearing was requested or held, or
17 no motion to alter was filed following the issuance of an administrative
18 amendment; and

19 (2) if a District Commission issues a partial decision under subsection
20 6086(b) of this title, any appeal of that decision must be taken within 30 days
21 following the date of that decision.

1 (j) Representation. The Secretary may represent the Agency in all appeals
2 under this section. If more than one State agency either appeals or seeks to
3 intervene in an appeal under this section, only the Attorney General may
4 represent the interests of the State in the appeal.

5 (k) Prior decisions. Prior decisions of the Water Resources Board, the
6 Environmental Board, the Waste Facilities Panel, and the Environmental
7 Division on matters arising under the chapters listed in section 8403 of this title
8 shall be given the same weight and consideration as prior decisions of the
9 Board.

10 (l) Intervention. Any person may intervene in a pending appeal if that
11 person:

12 (1) appeared as a party in the action appealed from and retained party
13 status;

14 (2) is a party by right;

15 (3) is a person aggrieved, as defined in this chapter; or

16 (4) meets the standard for intervention established in the Vermont Rules
17 of Civil Procedure.

18 (m) With respect to review of an act or decision of the Secretary pursuant
19 to 3 V.S.A. § 2809, the Board may reverse the act or decision or amend an
20 allocation of costs to an applicant only if the Board determines that the act,
21 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In

1 the absence of such a determination, the Board shall require the applicant to
2 pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

3 (n) Administrative record. The Secretary shall certify the administrative
4 record as defined in chapter 170 of this title and shall transfer a certified copy
5 of that record to the Board when:

6 (1) there is an appeal of an act or decision of the Secretary that is based
7 on that record; or

8 (2) there is an appeal of a decision of a District Commission and a
9 decision of the Secretary is relevant under a criterion of subsection 6086(a) of
10 this title that is at issue in the appeal.

11 § 8405. FEES

12 (a) All persons filing an appeal shall pay a fee of \$250.00, plus any
13 associated publication costs. The Board may waive the fee or publication costs
14 if the Board finds that the appellant or initiating party is unable to pay the fee
15 or publication costs. The fee of \$250.00 shall not apply to appeals or other
16 matters brought before the Board under this chapter in the name of the State by
17 public officials authorized to do so.

18 (b) All funds collected pursuant to this section shall be deposited into the
19 fund created in section 6029 of this title.

1 § 8406. APPEALS TO THE SUPREME COURT

2 (a) Any person aggrieved by an act or decision of the Board pursuant to
3 this chapter may appeal to the Supreme Court within 30 days after the date of
4 the entry of the judgment or order appealed from, provided that the person was
5 a party to the proceeding before the Board.

6 (b) Notwithstanding subsection (a) of this section, an aggrieved person may
7 appeal a decision of the Board if the Supreme Court determines that:

8 (1) there was a procedural defect that prevented the person from
9 participating in the proceeding; or

10 (2) some other condition exists that would result in manifest injustice if
11 the person's right to appeal was disallowed.

12 (c) An objection that has not been raised before the Board may not be
13 considered by the Supreme Court, unless the failure or neglect to raise that
14 objection is excused by the Supreme Court because of extraordinary
15 circumstances. The findings of the Board with respect to questions of fact, if
16 supported by substantial evidence on the record as a whole, shall be
17 conclusive.

18 (d) Only the Attorney General may represent the State in all appeals under
19 this section.

1 Sec. 14. 24 V.S.A. § 4449(a)(3) is amended to read:

2 (3) No permit issued pursuant to this section shall take effect until the
3 time for appeal in section 4465 of this title has passed, or in the event that a
4 notice of appeal is properly filed, no such permit shall take effect until
5 adjudication of that appeal by the appropriate municipal panel is complete and
6 the time for taking an appeal to the Environmental Division has passed without
7 an appeal being taken. If an appeal is taken to the Environmental Division, the
8 permit shall not take effect until the Environmental Division rules in
9 accordance with ~~10 V.S.A. § 8504~~ section 4471a of this title on whether to
10 issue a stay, or until the expiration of 15 days, whichever comes first.

11 Sec. 15. 24 V.S.A. § 4471 is amended to read:

12 § 4471. APPEAL TO ENVIRONMENTAL DIVISION

13 (a) Participation required. An interested person who has participated in a
14 municipal regulatory proceeding authorized under this title may appeal a
15 decision rendered in that proceeding by an appropriate municipal panel to the
16 Environmental Division as provided by section 4471a of this title.

17 Participation in a local regulatory proceeding shall consist of offering, through
18 oral or written testimony, evidence or a statement of concern related to the
19 subject of the proceeding. An appeal from a decision of the appropriate
20 municipal panel, or from a decision of the municipal legislative body under
21 subsection 4415(d) of this title, shall be taken in such manner as the Supreme

1 Court may by rule provide for appeals from State agencies governed by 3
2 V.S.A. §§ 801–816, unless the decision is an appropriate municipal panel
3 decision ~~which~~ that the municipality has elected to be subject to review on the
4 record.

5 * * *

6 Sec. 16. 24 V.S.A. § 4471a is added to read:

7 § 4471a. ENVIRONMENTAL DIVISION

8 (a) Applicability.

9 (1) This section and section 4471 of this title shall govern all appeals
10 arising under this chapter, except for appeals under section 4352 of this title.

11 (2) This section shall govern all appeals of acts or decisions of the
12 legislative body of a municipality arising under chapter 61, subchapter 10 of
13 this title relating to the municipal certificate of approved location for salvage
14 yards.

15 (3) This section shall govern all appeals from an act or decision of the
16 Environmental Division under this chapter.

17 (b) Appeals; exceptions.

18 (1) Within 30 days after the date of the act or decision, an interested
19 person as defined in section 4465 of this title who has participated as defined
20 in section 4471 of this title in the municipal regulatory proceeding under this
21 chapter may appeal to the Environmental Division an act or decision made

1 under this chapter by an appropriate municipal panel; provided, however, that
2 decisions of a development review board under section 4420 of this title with
3 respect to review of municipal impacts under 10 V.S.A. chapter 151 are not
4 subject to appeal but shall serve as presumptions in accordance with that
5 chapter.

6 (2) Notwithstanding subdivision (1) of this subsection, an interested
7 person may appeal an act or decision under this chapter if the Environmental
8 judge determines that:

9 (A) there was a procedural defect that prevented the person from
10 obtaining interested person status or participating in the proceeding;

11 (B) the decision being appealed is the grant or denial of interested
12 person status; or

13 (C) some other condition exists that would result in manifest injustice
14 if the person's right to appeal was disallowed.

15 (c) Notice. On filing of an appeal under this chapter, the appellant shall
16 give notice as required under section 4471 of this title.

17 (d) Stays.

18 (1) The filing of an appeal shall automatically stay the act or decision in
19 the following situations if it pertains to the denial of interested person status by
20 a board of adjustment, planning commission, or development review board.

1 (2) Upon petition by a party or upon its own motion for a stay of an act
2 or decision, the Environmental Division shall perform the initial review of the
3 request and may grant a stay. Any decision under this subsection to issue a
4 stay shall be subject to appeal to the Supreme Court according to the Rules of
5 Appellate Procedure.

6 (e) De novo hearing. The Environmental Division, applying the
7 substantive standards that were applicable before the tribunal appealed from,
8 shall hold a de novo hearing on those issues that have been appealed, except in
9 the case of a decision being appealed on the record pursuant to subsection
10 4471(b) of this title.

11 (f) Limitation on appeals. Notwithstanding any other provision of this
12 section, a municipal decision regarding whether a particular application
13 qualifies for a recorded hearing under subsection 4471(b) of this title shall not
14 be subject to appeal.

15 (g) Intervention. Any person may intervene in a pending appeal before the
16 Environmental Division if that person:

17 (1) appeared as a party in the action appealed from and retained party
18 status;

19 (2) is a party by right;

20 (3) qualifies as an “interested person” as established in section 4465 of
21 this title; or

1 (4) meets the standard for intervention established in the Vermont Rules
2 of Civil Procedure.

3 (h) Appeals to Supreme Court.

4 (1) Any person aggrieved by a decision of the Environmental Division
5 pursuant to this section or any party by right may appeal to the Supreme Court
6 within 30 days following the date of the entry of the order or judgment
7 appealed from, provided that:

8 (A) the person was a party to the proceeding before the
9 Environmental Division;

10 (B) the decision being appealed is the denial of party status; or

11 (C) the Supreme Court determines that:

12 (i) there was a procedural defect that prevented the person from
13 participating in the proceeding; or

14 (ii) some other condition exists that would result in manifest
15 injustice if the person's right to appeal were disallowed.

16 (2) An objection that has not been raised before the Environmental
17 Division may not be considered by the Supreme Court unless the failure or
18 neglect to raise that objection is excused by the Supreme Court because of
19 extraordinary circumstances.

20 * * *Development Cabinet* * *

21 Sec. 17. 3 V.S.A. § 2293 is amended to read:

1 (4) The Development Cabinet shall meet regularly in order to carry out
2 the purposes of this section.

3 *** Racial Equity Review ***

4 Sec. 18. IMPACTS ON RACIAL EQUITY AND DIVERSITY; REVIEW

5 (a) Pursuant to the duties and powers established under 3 V.S.A. chapter
6 68, the Executive Director of Racial Equity, in cooperation with the Racial
7 Equity Advisory Panel and the Human Rights Commission, shall conduct a
8 comprehensive review of the processes, procedures, and language of 10 V.S.A.
9 chapter 151 (Act 250) to assess the extent to which Act 250 has contributed to
10 adverse impacts on racial equity and diversity within the State. The review
11 shall:

12 (1) identify the impacts of acts or decisions made pursuant to Act 250 on
13 inequities in land ownership and land distribution within the State;

14 (2) measure the extent to which minority populations in the State have
15 incurred disproportional environmental impacts due to acts or decisions of the
16 State pursuant to Act 250;

17 (3) assess the capability of the current public participation processes,
18 notice requirements, and appointment processes under Act 250 to fairly
19 represent the interests of minority populations within the State; and

20 (4) recommend legislative changes to Act 250 necessary to achieve the
21 goals of racial equity and diversity representation for minority population.

1 (b) On or before October 15, 2020, the Executive Director of Racial Equity
2 shall report to the General Assembly with its findings and any
3 recommendations for legislative action.

4 * * * Revision Authority; Transition; Effective Dates * * *

5 Sec. 19. REFERENCES; REVISION AUTHORITY

6 (a) In the Vermont Statutes Annotated, all references to the Natural
7 Resources Board are deemed to be references to the Vermont Environmental
8 Review Board.

9 (b) In 10 V.S.A. § 6001 as amended by Sec. 3 of this act, the Office of
10 Legislative Council shall:

11 (1) in subdivision (2), replace the reference to “this act” with the
12 specific citation to this act as enacted; and

13 (2) reorganize and renumber the definitions so that they are in
14 alphabetical order and, in the Vermont Statutes Annotated, shall revise all
15 cross-references to those definitions accordingly.

16 (c) In the Vermont Statutes Annotated, the Office of Legislative Council
17 shall:

18 (1) replace “Natural Resources Board” with “Vermont Environmental
19 Review Board”;

20 (2) replace “10 V.S.A. chapter 220” and “chapter 220 of Title 10” with
21 “10 V.S.A. chapter 219”;