

February 12, 2020

Natural Resources Board Annual Report Calendar Year 2019



10 Baldwin Street
Montpelier, Vermont 05633-3201
Telephone: 802-828-3309

nrb.vermont.gov

Message from the Chair



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, Vermont 05633-3201

February 12, 2020

To: The Honorable Phil Scott, Governor
Senator Christopher Bray, Chair, Senate Committee on Natural Resources and Energy
Senator Jeanette White, Chair, Senate Committee on Government Operations
Representative Amy Sheldon, Chair, House Committee on Natural Resources, Fish & Wildlife
Representative Sarah Copeland-Hanzas, Chair, House Committee on Government Operations

We are proud to present you with the 2019 Annual Report for the Natural Resources Board/Act 250. We have continued to improve the format of this report for better access to performance data. 72% of Act 250 permits are issued in 60 days or less, and almost 79% are issued in 90 days or less.

2019 was a challenging year, with a strong focus on the testing and further development of the electronic application, and expanded database. When the system is ready, it will offer better tracking of applications, and a greater search capacity. The resignation of the Executive Director in July created an opportunity to reevaluate core job duties. We discovered that it was possible to strategically redistribute the work among existing staff and create an open position.

Compliance and Enforcement is an important part of the permitting process, and Act 250 has had only one C&EO. Leadership made a decision, with the support of the Board, to use the open position to hire another Compliance and Enforcement Officer. The goal is to be much more proactive with compliance of permits and conditions.

We have participated in many hours of discussion with our state partners, the Legislature, and the public, about changes to the NRB and Act 250.

We look forward to working with you for progress and clarity on those issues in 2020.

Sincerely,

A handwritten signature in cursive script that reads "D Snelling".

Diane Snelling, Chair



Telephone: (802) 828-3309
nrb.vermont.gov

Vermont Natural Resources Board and Act 250

The Natural Resources Board (NRB) is an independent entity in the Executive Branch of Vermont State Government whose primary function is to administer Act 250 (10 V.S.A. Chapter 151.) There are 25 full-time employees and approximately 70 citizen volunteers serving as Commissioners and Board members that support the work of the NRB's Central Office and the District offices.

The NRB consists of a full-time Chair and four citizen volunteer members, plus up to five alternates. Board Members are appointed by the Governor to 4-year staggered terms, except for the Chair who serves at the pleasure of the Governor. Its members in 2019 were Chair Diane B. Snelling (Hinesburg), Vice Chair Marty Illick (Charlotte), Brad Aldrich (Shelburne), Steve Larrabee (West Danville), and Don Turner (Milton). The alternates in 2019 were Julie Wolcott (Enosburg Falls), Gail Fallar (Tinmouth), and Elizabeth Courtney (Montpelier). All Board Members and Alternates must be confirmed by the Senate.



The Board's primary function is to administer Act 250, with an emphasis on promulgating rules, participating in appeals, and enforcing Act 250 violations. In addition, the Board offers support to the nine District Environmental Commissions that review Act 250 applications and issue permits.

The District Commissions sit as 3-member quasi-judicial bodies to review Act 250 applications. The Commissions issue permit decisions based on the application and other filings if no hearing is requested. They will hold contested case hearings when facts are disputed or unclear. District Environmental Coordinators, administrative staff, and the NRB attorneys support the Commissions in their work.

The NRB attorneys assist the District Commissions and Coordinators as needed on procedural and substantive issues that arise in Act 250 proceedings, including legal counsel, research, and drafting. The NRB participates as a party to Act 250 appeals before the Superior Court, Environmental Division.

Appeals from District Commissions (regarding permits) and from District Coordinators regarding Jurisdictional Opinions (JOs) are heard by the Vermont Superior Court, Environmental Division. The NRB appears and participates in such appeals. The NRB has authority to hear appeals from the Commission related to permit application fees and certain applications for requests for findings of fact and conclusions of law under specific Act 250 criteria for Designated Growth Centers. As of the passage of Act 174 in 2016, the NRB is also authorized to hear appeals of energy compliance determinations issued by the Commissioner of the Department of Public Service under 24 V.S.A. §4352(a). Less formally,

NRB staff work with District Commissions and Coordinators to ensure consistent treatment of emerging state-wide issues related to the 10 Criteria of Act 250, while concurrently respecting the District Commissions’ independence and regional perspective.

Natural Resources Board

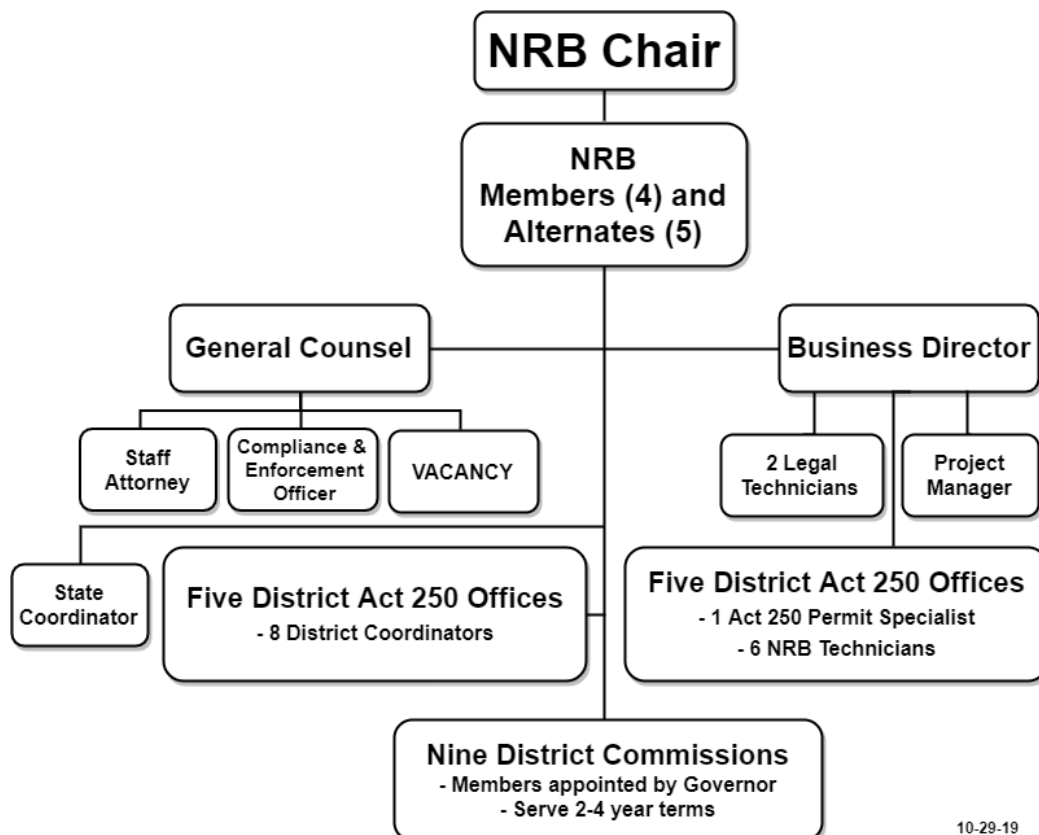
BOARD MEMBERS 2019

- Diane B. Snelling, Chair
- Martha Illick, Vice Chair (Exp. 1/31/2020)
- Brad Aldrich (Exp. 1/31/2021)
- Steven Larrabee (Exp. 1/31/2022)
- Donald Turner (Exp. 1/31/2023)

ALTERNATE BOARD MEMBERS 2019

- Elizabeth Courtney (Exp. 1/31/2020)
- VACANT
- Gail Fallar (Exp. 1/31/2017)
- Julie Wolcott (Exp. 1/31/2018)
- VACANT

The Chair of the NRB is charged with the overall administration of Act 250. These duties include developing and monitoring the NRB budget, procedural and substantive rulemaking, enforcement of Act 250 and mixed Act 250/ANR violations, general oversight of court appeals, oversight of the offices and employees of the NRB and the District Commissions, stakeholder relations, coordination with other state agencies, and legislative matters. The Chair, or designee, is also a member of the Downtown Development Board, and as such, the NRB participates in all Downtown Board decision making. The Downtown Development Board is responsible for designating downtown development districts, village centers, new town centers, growth centers, and neighborhood development areas; and for awarding financial incentives, pursuant to 24 V.S.A. Chapter 76A.



10-29-19

Natural Resources Board Central Office Staff

Greg Boulbol, General Counsel

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Aaron Brondyke, State Coordinator

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Alexandra Pastor, Project Manager

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Katie Emerson, Legal Technician

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Diane B. Snelling, Chair

Natural Resources Board
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Kimberley Lashua, Business Director

Natural Resources Board
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Michaela Stickney, Compliance and Enforcement Officer

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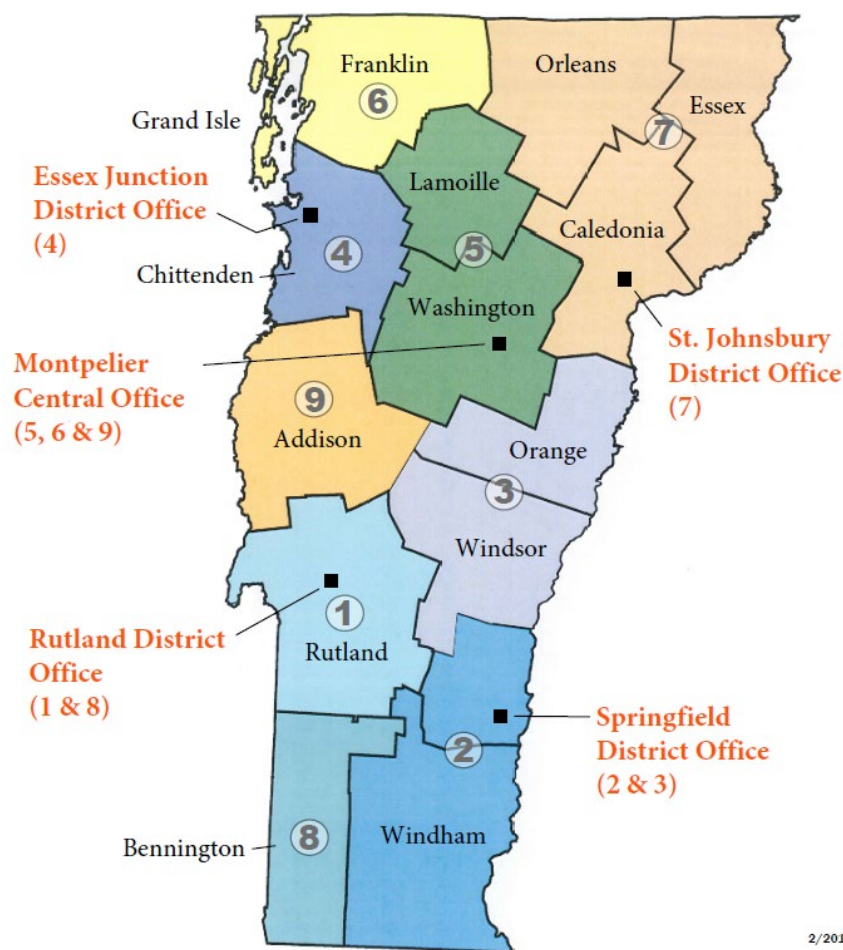
Evan Meenan, Associate General Counsel

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District Environmental Commissions and Staff

District Commissions are the heart of the Act 250 process. Nine District Commissions are responsible for assuring that developments and subdivisions comply with the 10 criteria of Act 250. Each Commission is composed of a Chair, two members, and four alternates, all residing in the district they serve. All Commissioners are appointed by the Governor. Each of the nine Commissions is staffed by one or two District Coordinators and Technicians who provide professional and administrative support. The Commission offices are found in five regional locations: Springfield, Rutland, Essex, St. Johnsbury, and Montpelier. Over the past 5 years, District offices have collectively processed an average of 460 Land Use Permit (Act 250) applications per year.

District Coordinators help Act 250 applicants, parties, and the public who seek to participate in the Act 250 process. This assistance is critical to maintaining an open, transparent, and citizen-friendly quasi-judicial process. Another important responsibility of Coordinators is issuing JOs regarding Act 250 jurisdiction. These are subject to appeal at the Superior Court, Environmental Division. The District Coordinators also collaboratively work with the NRB Compliance & Enforcement Officer and attorneys to enforce the Act 250 statute and land use permits.



CURRENT DISTRICT COMMISSIONS AND STAFF

District 1

Rutland County

Staff

District 1 Coordinator

William Burke, Tel. (802) 786-5923, [e-mail: william.burke@vermont.gov](mailto:william.burke@vermont.gov)

Main Number

Tel. (802) 786-5920, [e-mail: \(802\)786-5920](tel:(802)786-5920)

Address

District #1 Environmental Commission
440 Asa Bloomer State Office Building
88 Merchants Row, 4th Floor
Rutland, VT 05701

District 1 Environmental Commission

Chair:

VACANT

Members:

John Casella (Exp. 1/31/2021)

Mary Shaw (Exp. 1/31/2023)

Alternates:

John Bloomer (Exp. 1/31/2021)

VACANT

Devon Fuller (Exp. 1/31/2021)

VACANT

District 2

Roughly Windham County and the southern half of Windsor County

Staff

District 2 Coordinator

Stephanie Gile, Tel. (802) 289-0597, [e-mail: stephanie.gile@vermont.gov](mailto:stephanie.gile@vermont.gov)

NRB Act 250 Specialist

Kim Lutchko, Tel. (802) 289-0601, [e-mail: kim.lutchko@vermont.gov](mailto:kim.lutchko@vermont.gov)

NRB Technician

Rebecca Bezanson, Tel. (802) 289-0599, [e-mail: rebecca.bezanson@vermont.gov](mailto:rebecca.bezanson@vermont.gov)

Address

District #2 Environmental Commission
100 Mineral Street, Suite 305
Springfield, VT 05156-3168

District 2 Environmental Commission

Chair:

Thomas Fitzgerald (Exp. 1/31/2021)

Members:

Abbie Corse (Exp. 1/31/2021)

Gabrielle Ciuffreda (Exp. 1/31/2023)

Alternates:

Chris Callahan (Exp. 1/31/2021)

Cheryl Cox (Exp. 1/31/2021)

Julia Schmitz (Exp. 1/31/2017)

Mark Mullen (Exp. 1/31/2020)

District 3


Roughly Northern Windsor County and Orange County (except the towns of Washington, Williamstown and Orange, which are all within District 5)

Staff


District 3 Coordinator

Linda Matteson, Tel. (802) 289-0598, 
e-mail: linda.matteson@vermont.gov

NRB Act 250 Specialist

Kim Lutchko, Tel. (802) 289-0601, 
e-mail: kim.lutchko@vermont.gov

NRB Technician

Rebecca Bezanson, Tel. (802) 289-0599, 
e-mail: rebecca.bezanson@vermont.gov

Address

District #3 Environmental Commission
100 Mineral Street, Suite 305
Springfield, VT 05156-3168

District 3 Environmental Commission

Chair:

Tim Taylor (Exp. 1/31/2021)

Members:

Roderick J. Maclay (Exp. 1/31/2023)
Suzanne Butterfield (Exp. 1/31/2021)

Alternates:


Anne Margolis (Exp. 1/31/2021)
Marvin Harvey (Exp. 1/31/2020)
Linda Gray (Exp. 1/31/2021)
Clotilde Hryshko (Exp. 1/31/2021)


District 4

Chittenden County

Staff

District 4 Coordinators

Rachel Lomonaco, Tel. (802) 879-5658, 
e-mail: rachel.lomonaco@vermont.gov

Stephanie Monaghan, Tel. (802) 879-5662, 
e-mail: stephanie.monaghan@vermont.gov

NRB Technician

Christine Commo, Tel. (802) 879-5660, 
e-mail: christine.commo@vermont.gov

NRB Technician

Jessa Mason, Tel. (802) 879-5670, 
e-mail: jessica.mason@vermont.gov

Main Number

Tel. (802) 879-5614

Address

District #4 Environmental Commission
111 West Street
Essex Junction, VT 05452

District 4 Environmental Commission

Chair:

Thomas A. Little, Esq. (Exp. 1/31/2021)

Members:

Monique Gilbert (Exp. 1/31/2021)
Parker Riehle (Exp. 1/31/2023)

Alternates:

James McNamara (Exp. 1/31/2021)
Scott Baldwin (Exp. 1/31/2021)
Kate Purcell (Exp. 1/31/2021)
Pamela Loranger (Exp. 1/31/2020)

District 5

Washington and Lamoille Counties and the towns of Williamstown, Washington and Orange

Staff

District 5 Coordinators

Susan Baird, Tel. (802) 476-0134, [📞](#)
e-mail: susan.baird@vermont.gov

Josh Donabedian, Tel. (802) 476-0186, [📞](#)
e-mail: joshua.donabedian@vermont.gov

NRB Technician

Lori Grenier, Tel. (802) 476-0185, [📞](#)
e-mail: lori.grenier@vermont.gov

Main Number

Tel. (802) 476-0185, [📞](#)

Address

District #5 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201

District 5 Environmental Commission

Chair:

Josh Fitzhugh (Exp. 1/31/2021)

Members:

VACANT (Exp. 1/31/2023)

Jeremy Reed (Exp. 1/31/2021)

Alternates:

Peter Heitmann (Exp. 1/31/2018)

Ken Goslant (Exp. 1/31/2020)

Joslyn Wilschek (Exp. 1/31/2020)

Matthew F. Krauss (Exp. 1/31/2021)

District 6

Franklin and Grand Isle Counties

Staff

District 6 Coordinators

Susan Baird, Tel. (802) 476-0134, [📞](#)
e-mail: susan.baird@vermont.gov

Josh Donabedian, Tel. (802) 476-0186, [📞](#)
e-mail: joshua.donabedian@vermont.gov

NRB Technician

Lori Grenier, Tel. (802) 476-0185, [📞](#)
e-mail: lori.grenier@vermont.gov

Main Number

Tel. (802) 476-0185, [📞](#)

Address

District #6 Environmental Commission
10 Baldwin Street
Montpelier, VT 05633-3201

District 6 Environmental Commission

Chair:

Daniel Luneau (Exp. 1/31/2021)

Members:

Dave Kimel (Exp. 1/31/2023)

John Brigham (Exp. 1/31/2021)

Alternates:

Mark Naud (Exp. 1/31/2021)

Megan Manahan (Exp. 1/31/2018)

Ashley Toof (Exp. 1/31/2020)


Sylvia Jensen (Exp. 1/31/2021)

District 7

Caledonia, Orleans and Essex Counties

Staff

District 7 Coordinator

Kirsten Sultan, Tel. (802) 751-0126 

e-mail: kirsten.sultan@vermont.gov

NRB Technician

Gina St. Sauveur, Tel. (802) 751-0120 

e-mail: gina.stsauveur@vermont.gov

Main Number

Tel. (802) 751-0120 

Address

District #7 Environmental Commission
374 Emerson Falls Road, Suite 4
St. Johnsbury, VT 05819-2209

District 7 Environmental Commission

Chair:

Eugene Reid (Exp. 1/31/2021)

Members:

Keith Johnson (Exp. 1/31/2021)

Nicole Davignon (Exp. 1/31/2023)

Alternates:

Clark Atwell (Exp. 1/31/2017)

Dexter Randall (Exp. 1/31/2017)

Patricia Sears (Exp. 1/31/2017)

VACANT

District 8

Bennington County

Staff

District 8 Coordinator

William Burke, Tel. (802) 786-5923 

e-mail: william.burke@vermont.gov

Main Number

Tel. (802) 786-5920 

Address

District #8 Environmental Commission
440 Asa Bloomer State Office Building
88 Merchants Row, 4th Floor
Rutland, VT 05701

District 8 Environmental Commission

Chair:

Joan Goodrich (Exp. 1/31/2021)

Members:

Richard Kobik (Exp. 1/31/2021)

Don Miller (Exp. 1/31/2023)

Alternates:

Leslie Keefe (Exp. 1/31/2021)

Pauline Moore (Exp. 1/31/2021)

Michael McDonough (Exp. 1/31/2019)

VACANT

District 9

Addison County

Staff

District 9 Coordinators

Susan Baird, Tel. (802) 476-0134, [📞](#)

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Josh Donabedian, Tel. (802) 476-0186, [📞](#)

e-mail: joshua.donabedian@vermont.gov

NRB Technician

Lori Grenier, Tel. (802) 476-0185, [📞](#)

e-mail: lori.grenier@vermont.gov

Address

District #9 Environmental Commission

10 Baldwin Street

Montpelier, VT 05633-3201

Tel. (802) 476-0185, [📞](#)

District 9 Environmental Commission

Chair:

Fred Baser (Exp. 1/31/2021)

Members:

Al Karnatz (Exp. 1/31/2020)

Connie Houston (1/31/2023)

Alternates:

Pennie Beach (Exp. 1/31/2021)

Warren Van Wyck (Exp. 1/31/2021)

Ken Perine (Exp. 1/31/2021)

VACANT





ACT 250 Applications

DEEMED COMPLETE

Note: The term "deemed complete" is the date upon which an application is deemed to be *both* technically and administratively complete.

The deemed-complete report is based on a statistical analysis of NRB and District Commission activity during Calendar Year 2019 (CY 2019). Fiscal Year (FY) data has been used only for the fee revenue analysis.

- In CY 2019, 445 permit applications were filed (i.e., deemed complete) among the nine District Commissions.
- In CY 2019, 459 permit decisions were issued among the nine District Commissions. (Some of those applications had been deemed complete prior to January 1, 2019.) Of the 459 decisions issued in CY 2019, 46% were processed as administrative amendments, 46% as "Minor" applications with no contested-case hearings, and 8% were processed as "Major" applications. A public hearing is required for Major applications in order to review the project's conformance to the 10 Criteria of Act 250.

ACT 250 APPLICATIONS DEEMED COMPLETE

	2015	2016	2017	2018	2019
Major (Hearing Required)	51	46	33	36	23
Minor (No Hearing)	258	218	236	192	220
Administrative Amendments	143	201	254	176	202
TOTALS	452	465	523	404	445

PROCESSING TIMES BY APPLICATION TYPE, 2019 ONLY

From date application deemed complete to date permit, findings, or denial issued	Administrative Amendment Applications	Minor Applications	Major Applications	Minor Applications that Became Major Applications	All Application Types Combined
0 – 30 days	96.2%	24.9%	0.0%	0.0%	55.3%
31 – 60 days	1.0%	35.2%	0.0%	0.0%	16.8%
61 – 90 days	0.5%	14.6%	12.5%	0.0%	7.8%
91 – 120 days	1.0%	9.4%	12.5%	40.0%	6.1%
More than 120 days	1.4%	16.0%	75.0%	60.0%	13.9%

PROCESSING TIMES, MINOR & MAJOR APPLICATIONS ONLY

From date application deemed complete to date permit, findings, or denial issued	2015	2016	2017	2018	2019
0 – 30 days				16%	21.2%
31 – 60 days				39%	30.0%
61 – 90 days		Not available ¹		17%	14.0%
91 – 120 days				8%	10.4%
More than 120 days				20%	24.4%

¹ Data is not available for these years because it was not calculated in this manner in the respective annual reports.

PROCESSING TIMES – COMPARISON WITH PRIOR YEARS

From date application deemed complete to date permit, findings, or denial issued	2015	2016	2017	2018	2019
0 – 30 days	50%	47%	56%	49%	55.3%
31 – 60 days	19%	25%	22%	24%	16.8%
61 – 90 days	11%	8%	9%	10%	7.8%
91 – 120 days	5%	4%	4%	6%	6.1%
More than 120 days	15%	16%	9%	11%	13.9%

Note: The application processing times reported above include time spent by applicants obtaining certain permits from other state agencies that are used to document compliance with several Act 250 criteria. This time can vary from several weeks to several months, and on occasion, a year or more. For CY 2019, the Board has broken down processing times by type of application review process [Administrative Amendment, Minor Review, Major Review, and applications that started as a Minor Review, but later went to hearing (Major Review)]. These figures do not include processing times for altered, remanded, corrected, or withdrawn permits.

For CY 2019, the average processing time for permit application decisions across all application types (Administrative Amendments, Minors, and Majors) was 61.8 days from the date the application was deemed complete until a decision was issued. If considering Minor and Major applications alone, the average processing time was 107.1 days.

In CY 2019, 51.2% of all Major and Minor permit decisions were issued within 60 days. When Administrative Amendments are added, the percentage for all applications issued in 60 days or less rises to 72.1% for the same timeframe. A total of 86.1% of all applications were issued within 120 days.

One Major permit application was denied in CY 2019, representing 2.7% of major decisions issued.

Eight of the 37 District Commission Major decisions issued, or 21.6%, were appealed in CY 2019. This compares to an appeal rate of 16% of Major decisions in CY 2018. In addition, 6 JOs were appealed in CY 2019.

Performance Standards

Statutory and internal performance standards guide the performance of the District Coordinators and Commissions. Average CY 2019 performance is listed below.

PERFORMANCE STANDARDS - CY 2019

Category	Standard	CY 2019 Performance ¹
All Applications Average Days for Initial Application Completeness Review (Internal Standard)	7 days	6.7 days
Minor Applications Average Days to Issue after End of Comment Period or Last Item Received (Internal Standard)	10 days	7.1 days
Major Applications Average Days to Issue After Adjournment (Act 250 Rule Standard)	20 days	8.0 days
Major Applications Average Days from Deemed Complete to Pre-Hearing or Hearing (Statutory Standard)	40 days	50.1 days
Minor-to-Major Applications Average Days from End of Comment Period to Pre-Hearing or Hearing (Statutory Standard)	20 days	37.4 days

¹These figures do not include time periods for decisions on motions to alter, decisions remanded from the court, corrections made to permits to clarify simple errors, formal abandonment proceedings, or application withdrawal proceedings for permit applications that had been inactive for years. Specifics on the omissions are available upon request.

PERFORMANCE STANDARDS – COMPARISON WITH PRIOR YEARS

Category	CY 2015	CY 2016	CY 2017	CY 2018 ¹	CY 2019 ¹
All Applications Average Days for Initial Application Completeness Review (Internal Standard: 7 days)	1.4 days	2.9 days	2.6 days	4.6 days	6.7 days
Minor Applications Average Days to Issue After End of Comment Period or Last Item Received (Internal Standard: 10 days)	3.9 days	7 days	NR	7.5 days	7.1 days
Major Applications Average Days to Issue After Adjournment (Act 250 Rule Standard: 20 days)	7.3 days	15 days	4.3 days	7.6 days	8.0 days
Major Applications Average Days from Application Deemed Complete to Pre-Hearing or Hearing (Statutory Standard: 40 days)	42 days	38 days ²	NR	42.1 days ³	50.1 days
Minor-to-Major Applications Average Days from End of Comment Period to Pre-Hearing or Hearing (Statutory Standard: 20 days)	NA	NA	NA	21.5 days	37.4 days

NR = not reported; NA = not available because not previously presented in annual reports.

¹ These figures do not include time periods for decisions on motions to alter, decisions remanded from the court, corrections made to permits to clarify simple errors, formal abandonment proceedings, or application withdrawal proceedings for permit applications that had been inactive for years. Specifics on the omissions are available upon request.

² This average does not include 2 cases in which the District Commission granted the applicant and parties additional time to resolve contested issues prior to scheduling a hearing.

³ This average figure includes 1 case in which a District Commission granted an applicant's request for additional time to revise the application materials prior to scheduling a hearing. This extended period lasted more than 3.5 months. If this one unusual case were omitted, this average would be 39.9 days.

NRB Special Fund – Permit Application Fees

The NRB is funded by a combination of General Funds and Special Funds generated by Act 250 application fees. Act 250 permit application fees are based on the following for each application:

- For every \$1,000.00 of estimated construction cost, \$6.65 is collected for the first \$15,000,000.00 of construction costs, and \$3.12 for each 1,000.00 of construction costs above \$15,000,000.00.
- For every \$1,000.00 of estimated construction cost, an additional \$0.75 is collected for the Agency of Natural Resources (ANR) to help offset the cost of ANR's participation in the Act 250 process on applications that are not administrative in nature.
- For subdivisions, for each lot created, a fee of \$125.00 per lot is collected.
- For new applications, a minimum application fee of \$187.50 is collected. For amended applications, a minimum application fee of \$62.50 is collected.
- State and municipal projects are fee-exempt (10 V.S.A. § 6083a).

Fees are deposited into the Act 250 Special Fund. In FY 2019, the NRB is relying on Special Funds to cover 81% of its annual expenditures for personal service and operating costs, with the remaining 19% covered by General Funds.

Total fees collected by Act 250 in the last 5 fiscal years:

FY 2015	\$2.407M
FY 2016	\$2.397M
FY 2017	\$2.881M
FY 2018	\$1.773M
FY 2019	\$2.135M

Special Fund spending authority for the NRB for the last 5 fiscal years:

FY 2015	\$2.017M
FY 2016	\$2.330M
FY 2017	\$2.274M
FY 2018	\$2.245M
FY 2019	\$2.531M

Certification of Actual Construction Cost Fees

Following the completion of project construction, each permittee is required to file a form certifying actual construction costs (CACC) and pay any additional Act 250 permit fees due. Because CACC fees are directly related to the actual costs of construction, total annual fees can vary significantly from one year to the next. CACC fees collected for the last 5 years are presented below:

FY 2015	\$72,894
FY 2016	\$133,611
FY 2017	\$49,884
FY 2018	\$105,421
FY 2019	\$161,355

Participation in Court Appeals (CY 2019)

The NRB has statutory authority to participate as a party in Act 250 appeals to the Superior Court, Environmental Division. In CY 2019, the NRB participated in 8 Act 250 District Commission decisions and 6 JOs that were appealed to the Superior Court, Environmental Division. The NRB participated, through its attorneys, as a party in all 14 appeals. Only 1 case was appealed from the Environmental Division to the Vermont Supreme Court in 2019.

APPEALS

	2015	2016	2017	2018	2019
JO Reconsiderations	6	9	NA	NA	NA
JO Appeals	1	4	8	3	6
District Commission Decision Appeals	16	6	14	5	8
TOTALS	23	19	22	8	14

Compliance and Enforcement

The NRB is authorized to enforce Act 250 pursuant to the Environmental Enforcement Act, Title 10, Chapter 201. The NRB has direct authority to issue Administrative Orders, Emergency Administrative Orders, Assurances of Discontinuance (AODs), and Civil Citations with respect to violations of Act 250; and the NRB cooperates with ANR on mixed Act 250/ANR enforcement matters. The NRB's Enforcement staff consists of the General Counsel, the Associate General Counsel, and one full-time Compliance & Enforcement Officer. The NRB is in the process of hiring a second Compliance & Enforcement Officer. The Chair of the Board directs the Board's Enforcement Program.

2019 ENFORCEMENT ACTIVITY

This year, the NRB's Compliance & Enforcement Officer investigated approximately 95 complaints, including 60 new complaints received in 2019. Some of these complaints were not deemed violations, whereas others were referred to ANR. The Enforcement Team addressed or initiated 16 formal enforcement actions and resolved 13 violations through formal enforcement. In addition, 25 complaints were resolved without formal enforcement action.

The Board assessed \$209,375 in penalties this year and assessed enforcement costs of approximately \$29,931. All assessed penalties are deposited in the General Fund, whereas assessed NRB enforcement costs are deposited in the Act 250 Special Fund. Several enforcement cases resulted in environmental protection, such as restoration or reclamation activity not reflected in penalty amounts.

The NRB enforcement program resolved 11 cases this year through AODs and 1 case through a Civil Citation. AODs are settlement agreements that often include civil penalties and compliance directives. Civil Citations are tickets issued by the Enforcement Officer that levy fines of up to \$3,000 per citation. The Enforcement Team issued 4 Notices of Alleged Violation (NOAVs) in 3 different Act 250 Districts in 2019. NOAVs are warning letters that set out the facts of an alleged violation and invite a response. These often include compliance directives and may be followed up with further enforcement action, including penalties.

Enforcement	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019
New Investigations Opened	102	98	84	93	60
Formal Enforcement Actions Initiated	19	24	16	6	16
Violations Resolved through Formal Enforcement	19	23	22	9	13
Violations and Complaints Resolved without Formal Enforcement		39	62	38	25
Total Penalties Assessed ¹	\$78,950	\$143,302	\$117,100	\$47,895	\$209,375 ²
Total Penalties Collected ³	\$61,982	\$72,366	\$185,273	\$41,920	\$92,767 ⁴
Enforcement Costs Assessed ⁵	\$7,267	\$16,342	\$15,485	\$3,407	\$29,931 ⁶

¹ All penalties assessed are deposited in the General Fund.

² Total penalties assessed include NRB penalties of \$156,375 + ANR penalties of \$24,750 (for cases that included an ANR violation in which NRB took the lead) + Supplemental Environmental Project funds of \$28,250.

³ Total penalties collected may include penalties assessed in previous years.

⁴ Total penalties collected include \$72,950 of NRB penalties + \$19,817 of NRB enforcement costs.

⁵ All NRB enforcement costs assessed are deposited in the Act 250 Special Fund.

⁶ Enforcement costs include costs for both NRB (\$27,928) and ANR (\$2,003).

Information Technology and Business Process Improvement

NEW ACT 250 DATABASE, ONLINE APPLICATION FORM DEVELOPMENT, AND CONTINUED TECHNOLOGICAL INNOVATION

The NRB has been working on a multi-year software project with IT staff from the Agency of Digital Services to build an improved public Act 250 database website integrated with an entirely online Act 250 application system. The new web portal enhances the user's all-in-one experience by expanding the current Act 250 permit information available to the public, providing additional record and data search capabilities for the same, and publishing the permit program's reported performance standards. In addition, data from two separate databases will be merged into the new database, giving both staff and the public online access to more records in one place than previously possible. The new portal will replace the current Act 250 database portal hosted by ANR on its website.

The 2018 transition to a new ADS senior project manager narrowed the scope and direction of the project, enabling the NRB to move through preliminary system testing throughout 2019 and enter final user acceptance testing in mid-December. The project's launch date is scheduled for 2020. Below are some of highlights users can look forward to upon launch:

Application Updates

- Every type of Act 250 application and the corresponding CACC can be filled out and submitted online
- Supporting documents are easily uploaded as attachments
- Progress filling out the online forms is autosaved every few minutes (avoids data loss)
- Form submissions are trackable

- Forms can be shared with others for co-completion and review
- Form submission is allowed only when all required questions have been answered (to achieve a higher degree of completeness)

Public Act 250 Database Updates

- New data provided for each record
 - Permit/decision processing times
 - Project type (Commercial, Mixed Use, Municipal, Residential, Ski Resort, or State)
 - Expanded status types (i.e., expanded set of pending statuses to better understand stage of processing an application is in)
- Added search fields
 - Search by project's street address
 - Search by/for other participants [i.e., main contact, adjoiner(s), FYIs, those with party status, JO/Project Review Sheet (PRS) requesting party, those with significant legal interest, ANR Specialist (for PRSs only), & friend(s) of the Commission]
 - Search by project name
 - Search by date range
- Access to more records
 - Thousands of older records not previously available online will now be included (merge of records from a second database)
 - Search results (up to 1000 records) can be downloaded as an Excel spreadsheet
- Map view
 - Location map powered by Google Maps (based on project Latitude/Longitude)
 - Link to corresponding project data point on the ANR Atlas's

Weekly Act 250 Agenda Updates

- Generated automatically when applications are placed on public notice or when certain decisions are issued (JOs and any reconsiderations, permits, findings, permit denials, and withdrawn or dismissed permit applications)
- Includes a link to corresponding project datapoint in ANR Atlas
- Includes a link to the project location map (powered by Google Maps)
- Self-subscribe to/unsubscribe from weekly Agenda email
- Automatically emailed same time and same day every week
- Contains 3 weeks' worth of projects: the current week, the prior week, and the following week

What is Act 47?

THE ACT 47 COMMISSION ON ACT 250 – THE NEXT 50 YEARS

Act 47 was passed in 2017 and created the Commission on Act 250: The Next 50 Years. The Commission was charged with a comprehensive review of Act 250.

In 2018, the Act 47 Commission on Act 250 held six forums around the State as a public engagement opportunity designed to gather suggestions from citizens and interested organizations on how the State might better protect the environment and regulate development within the context of Act 250. Through these engagements, Act 47 Commission members, legislators and NRB staff were able to share information with attendees, receive input on experiences and gather opinions and respond to questions. Additional information was gathered through written comments posted online and through a statewide survey. The results of this effort can be reviewed in the Commission's recommendations to the Legislature.

The Act 47 Commission on Act 250 continued into early 2019, developing their final report and recommendations.

In early 2020, the work of the Act 47 Commission became the basis for legislation proposed by the House Committee on Natural Resources, Fish, and Wildlife.



From The Findings, Sec. 1 of Act 250:

“...it is necessary to regulate and control the utilization and usages of lands and the environment to insure [sic] that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are suitable to the demands and needs of the people of this state.”



This document has been prepared pursuant to 10 V.S.A. Section 6083(d), which requires that the Natural Resources Board (NRB) submit a report annually to the General Assembly (see statutory reference below.) In addition, a copy is made available to the Governor and the Committees noted below.

(d) The Board and Commissions shall make all practical efforts to process matters before the Board and permits in a prompt manner. The Board shall establish time limits for the processing of land use permits issued under section 6086 of this title as well as procedures and time periods within which to notify applicants whether an application is complete. The Board shall report annually by February 15 to the General Assembly by electronic submission. The annual report shall assess the performance of the Board and Commissions in meeting the limits; identify areas which hinder effective performance; list fees collected for each permit; summarize changes made to improve performance; and describe staffing needs for the coming year. The annual report shall list the number of enforcement actions taken by the Board, the disposition of such cases, and the amount of penalties collected. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the report to be made under this subsection.