

H.120 v. H.400

Topic	H.120 (Sheldon)		H.400 (Sibilia/Administration)	
Capability and Development Plan	Secs. 1-2 pg 1-3	Update to include greenhouse gas emissions, climate change, and ecosystem protection.		
	Sec. 3 § 6000 pg 3	Adds a purpose section to Act 250		
	Sec. 3 § 6001(2) pg 3	Amends definition of “Capability and Development Plan” to include 1973 Acts and Resolves No. 85, Secs. 6 and 7		
Interstate Interchange Areas	Sec. 3 § 6001(3)(A)(xi) pg 4-5	Adds a jurisdictional trigger for construction w/in 2000 ft of interstate interchanges		
River Corridors	Sec 3 § 6001(3)(A)(xii) pg 6	Adds a jurisdictional trigger for development within a river corridor		
	Sec. 3 §6001 (6) & (7) pg 6	Updates definition of “flood hazard area” and “river corridor”	Sec. 20 §6001 (6) & (7) pg 35	Same
Board	Sec. 3 § 6021 pg 8-9	Amends the skills Board members should have and requires Governor appointments to reflect diversity of the State	Sec. 1 § 6021 pg 1	Same, but also includes additional language

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			Sec. 1-11 pg 1-25	Changing the NRB to a professional board with three full-time members who will hear major permit applications. The NRB will have authority to revoke Act 250 permits and may delegate authority to the District Commissions over determining the type of application and the ability to issue minors and amendments.
	§ 6022 pg 9-10	Allows the Board to retain additional experts; requires Board to make sure District Commission have sufficient resources	Sec. 2 § 6022 pg 5	Same
			Sec. 4 § 6027(f) pg 7	NRB may publish indices of its decisions and those of the Supreme Court
	§ 6027 pg 12	Gives Board authority to hear appeals of RPC decisions related to interstate interchange areas and to approve regional plans		
			Sec. 8 § 6084a pg 17-19	Permit hearings by the Board shall be on the record

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Appeals			Sec. 11 § 6089 pg 23-25	Board shall hear appeals of: JOs; decisions of whether permit is major or minor; appeals of fish, wildlife, habitat permit; designations of downtowns, enhanced village centers, and NDAs by Downtown Development Board
			Sec. 34- 35 10 VSA chap 220 4 V.S.A. § 34 pg 52-63	Changing the path of permit appeals by removing jurisdiction of the Environmental Division of the Superior Court, with appeals of the permit decisions going straight to the Supreme Court.
District Commissioners	Sec. 3 § 6026 pg 10-11	Increase terms to 4yrs; reduce alternates to 2 per district; requires Governor to make appointments in timely manner and reflect diversity of State	Sec. 3 § 6026 pg 6-7	Nearly the Same: Also, makes non-chair members serve at pleasure of Governor and allows Chair of NRB ability to appoint Commissioners to sit on case when others are disqualified
	§ 6027(a) pg 11	Reaffirming the supervisory authority in environmental matters of the Board and District Commissions, in accordance with the original intent of Act 250 as determined by the Vermont Supreme Court.		
	§ 6031 pg 12-14	Bans ex parte communications	Sec.5 § 6031 pg 9-11	Nearly the Same: slightly different citation and specifically references the Board, not the District Commissions

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	§ 6084(a) pg 15-16	shifts burden to District Commission to provide notice by electronic means	Sec. 7 § 6084(b) pg 14	Same (different citation)
Slate	Sec. 3 § 6081(1)(6) pg 15	Requires slate quarries to be added to the ANR natural resources atlas		
Criteria	Sec. 3 § 6086(a) pg 17-21	Reorganizes Criteria 1, 2, 3- separates <u>air</u> from <u>water pollution</u>		
	§ 6086(a)(1)(A) pg 17	Adds subcriterion 1(A) air contaminants		
	§ 6086(a)(1)(B) pg 17-18	Adds subcriterion 1(B) greenhouse gas emissions		
	Sec. 3 § 6086(a)(2) pg 18-21	Amends Criterion 2- include existing <u>water subcriterion</u> Updates floodways to Flood Hazard Areas and River Corridors to match ANR's rules	Sec. 21 §6086(a)(1)(D) pg 35-36	Same
	§ 6086(a)(3) pg 21	Combines existing Criteria 2 & 3 (<u>sufficient water available & existing water supply</u>)		

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	§ 6086(a)(5) pg 21-22	Amends Criterion (<u>traffic</u>) 5 to require review of projects for safety and congestion impacts to bicycle and pedestrian infrastructure Amends Criterion 5 to better define when it is appropriate to require projects to incorporate transportation demand management strategies	Sec. 22 § 6086(a)(5) pg 36-37	Nearly the Same: strikes reference to District Commission
	§ 6086(a)(8)(A) pg 22-23	Shifts burden of persuasion under Criterion 8(A) (<u>necessary wildlife habitat</u>) to the applicant		
	§ 6086(a)(8)(B) &(C) pg 23-25	Amends Criterion 8 to add <u>forest blocks and connecting habitat</u> and adopts an avoid, minimize, and mitigate requirement		
	§6086(a)(9)(F) pg 26	Amends Criterion 9(F) to include <u>energy efficiency</u> and stretch codes and require certification through inspection	Sec. 22 §6086(a)(9)(F) pg 37	Same
	§6086(a)(9)(K) pg 26-27	Updates public investment criterion 9(K) to include forms of <u>public investments</u> that have developed since 1970		
	§6086(a)(9)(M) pg 27	Adds Criterion 9 (M)- <u>Climate Adaptation</u> to require projects to be designed to adapt and be resilient to climate change	Sec. 22 §6086(a)(9)(M) pg 38	Same

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			Sec. 23 pg 38	Requires NRB to adopt rules on how to meet new criterion 9(M)
	§6086(a)(9)(N) pg 27	Adds Criterion 9(N)- <u>Environmental Justice</u> which requires that a project not disproportionately impact any one group		
	§6086(a)(10) pg 27-28	Clarifying in Criterion 10 (<u>local and regional plans</u>) that regional plan provisions apply to a project if they meet the same standard of specificity applicable to statutes.		
Municipal response	Sec. 3 §6086(d)(3) pg 31	If no response from municipality w/in 90 days, presumed not to have unreasonable burden under criteria (6) & (7)	Sec. 33 §6086(g) pg 52	Same (slightly different citation)
Denial of permit application	Sec. 3 § 6087 pg 31	Permit applications can be denied without prejudice if applicants don't respond within 6 months	Sec. 10 § 6087 pg 23	Same
Release from jurisdiction	Sec. 3 § 6090 pg 32-34	Creates process under which property can be released from Act 250 jurisdiction when the property would no longer trigger Act 250 jurisdiction	Sec. 17 § 6090 pg 32-33	Nearly the same: also allows release if town changed from 1-acre town to 10-acre town

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Forest-based enterprises			Sec. 30 §6086(c) pg 49-51	Allows forest-based enterprises to make and receive deliveries outside of permitted hours of operation
	Sec. 3 § 6001 (43) & (44) pg 7-8	Adds definitions of “Wood products manufacturer” and “wood product”	Sec. 29 § 6001(38) & (39) pg 48-49	Adds definitions of “forest-based enterprise” and “forest product”
	Sec. 3 10 V.S.A. § 6093 pg 34	Forest-based enterprises can mitigate primary ag soils on a ratio of 1:1	Sec. 31 §6093 pg 51	Nearly the same: uses different defined term
Mitigation of Forest Fragmentation and Habitat Protection	10 V.S.A. § 6094 pg 35-37	Establishes requirements for when impacts under criteria 8(B) and (C) can be mitigated		
Resource Mapping	Sec. 4 10 V.S.A. § 127 pg 37-38	Requires ANR to include forest blocks on resource maps		
Regional Planning	Sec. 5 24 V.S.A. §4348(f) pg 38- 39	Requiring regional plans to be approved as consistent with the statutory planning goals by the NRB		

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Municipal Plans	Sec. 6 pg 39	Requiring municipal plans to be consistent with statutory goals for municipal and regional planning		
Racial Equity Review	Sec. 7 pg 39	Executive Director of Racial Equity, the Racial Equity Advisory Panel, and the Human Rights Commission shall conduct a review of the processes, procedures, and language of Act 250 to assess the extent to which Act 250 has contributed to adverse impacts on racial equity and diversity within the State.		
Planning Review	Sec. 8 pg 40- 42	The NRB and ACCD will make recommendations on how to incorporate and update the Capability and Development Plan into Act 250 and how Capability and Development Plan maps should be created and used		
Permit Fee Review	Sec. 9 pg 43	The Sec. of Administration shall report on workload of NRB and District Commissions, the sufficiency of the current fee structure, and whether to allocate fees to other agencies		

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New Criteria Rulemaking	Sec. 10 pg 43-44	Require the NRB to adopt rules on how to avoid, minimize, and mitigate impacts on forest blocks and connecting habitat and greenhouse gas emissions		
Fish, Wildlife, and Habitat Permit			Sec. 24 10 V.S.A. § 4154 pg 38-45	Applicants for an Act 250 permit shall apply to Department of Fish and Wildlife, for a new permit which shall review the projects for impacts within their jurisdiction. A permit shall be issued if the Dept finds the project will maintain the natural condition of the stream and not have an undue adverse impact under the requirements of Criterion 8. The Commissioner may establish a general permit. The Commissioner shall adopt rules implementing this new permit.
			Sec. 25 10 V.S.A. § 4155 pg 45-46	Sets fees for new permit. \$150 for permit + any costs F&W incur in processing the permit \$100 for a general permit + any costs F&W incur in processing the permit
			Sec. 26 §6086(d) pg 46-47	Adds new permit to list of permits that receive a presumption

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			Sec. 27 pg 48	Directs NRB to update permit presumption rule to include new permit
			Sec. 28 10 V.S.A. § 8003 pg 48	Adds new permit to Secretary of ANR's enforcement authority
			Sec. 7 § 6084 pg 15	Appeal of FWH permit make underlying permit application a major
Pre-application process			Sec. 7 § 6084 pg 12-13	Applicants must submit plans to District Commissions and regional and municipal planning commissions 30 days before filing application in order to get feedback from the community
Enhanced Village Center Designation			Sec. 12 24 V.S.A. §2793a pg 25	Creates new designation
Exemption for designated areas			Sec. 14 § 6081 pg 26	Designated downtowns, enhanced village centers, and Neighborhood Development Areas (NDAs) exempt from Act 250

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			Sec. 15 §6001 (27) & (35) pg 28-30	Updates definitions of “mixed income housing” and “priority housing project”
			Sec. 16 24 V.S.A. § 4460(f) pg 30-32	Existing Act 250 permits for projects within downtowns, enhanced village centers, and NDAs can be extinguished when permit conditions are added to municipal permits.
Transportation Projects			Sec. 18 § 6001(3)(A) pg 33-34	Excluding previously disturbed areas from the definition of development if they are transportation facilities.
			Sec. 19 § 6001(40)	Adds definition of “transportation facility”
Accessory on-farm businesses			Sec. 32 10 V.S.A. § 6001(3)(D) pg 51	Exempting from the definition of development accessory on-farm businesses constructed on less than 1 acre
Revision authority	Sec. 11 pg 44-45	Directs Leg Counsel to add subcriteria headings and alphabetize § 6001		