



Act 250 Appeals & Board Structure: Past,
Present and ...

AGENDA

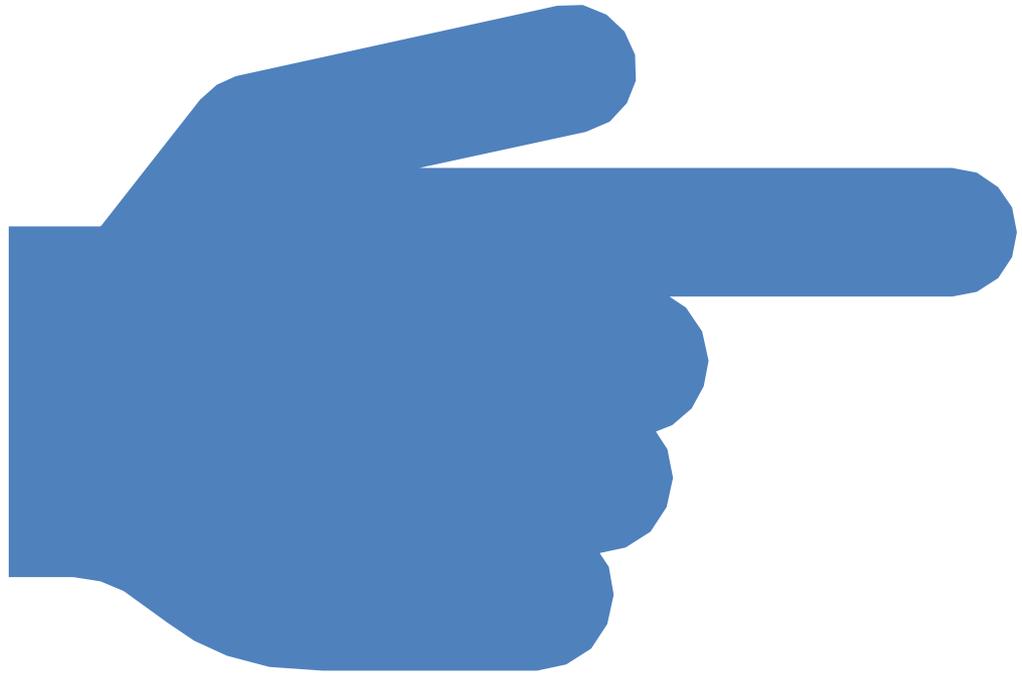
Appeals and Board Structure

- Natural Resources Board Appeals (*Status Quo*)
- Environmental Board Appeals (as of 2003)
- VERB Appeals

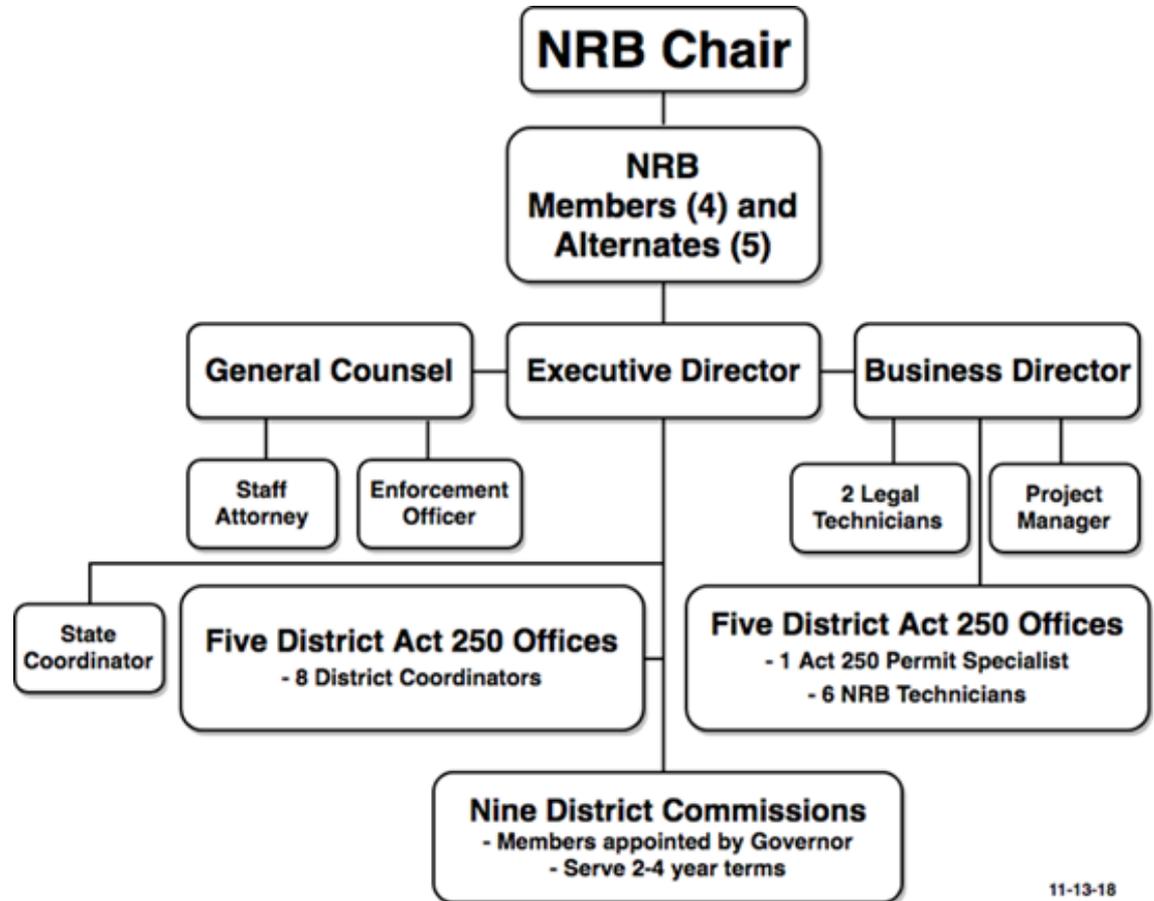
- Questions? Answers??

Greg Boulbol
Natural Resources Board
March 12, 2019

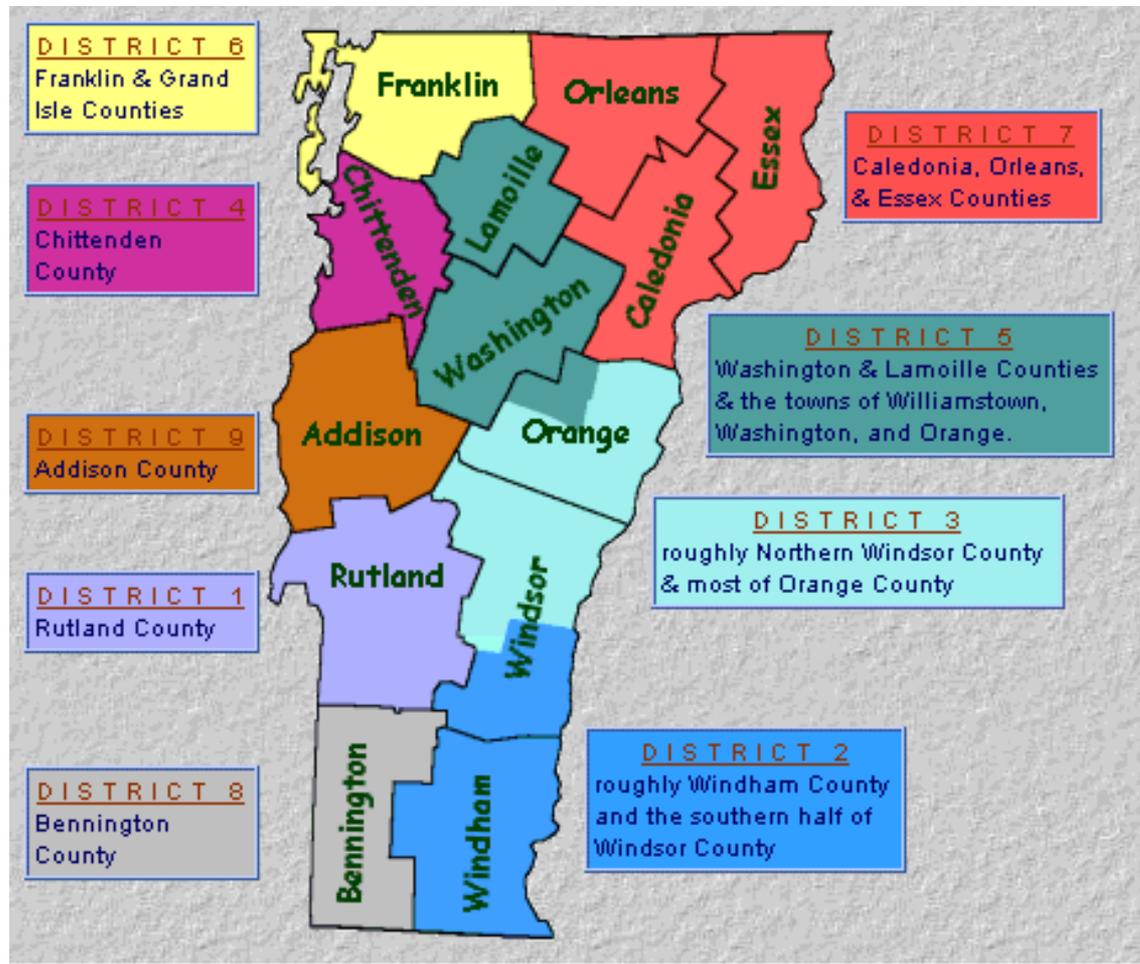
Appeals—
Status Quo



Natural Resources Board



9
Environmental
Districts



Appeals (*Status Quo*)



NRB does not hear appeals from the District Commissions or District Coordinators on substantive matters. Nor does the NRB hear appeals from the Agency of Natural Resources.



The NRB does appear in and participate in appeals to the Environmental Division on a discretionary basis.



The NRB does have limited appellate jurisdiction to hear appeals from District Commissions related to permit application fee refund requests.



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).



The Board hears requests for findings of fact and conclusions of law under specific Act 250 criteria for Designated Growth Centers

Appeals under the Natural Resources Board (*Status Quo*)

- District Commission Decisions (including decisions granting or denying permits and party status)

Appeal to

- Vermont Superior Court, Environmental Division

- District Coordinator decisions (Jurisdictional Opinions)

Appeal to

- Vermont Superior Court, Environmental Division

Appeals under the Natural Resources Board (*Status Quo*)

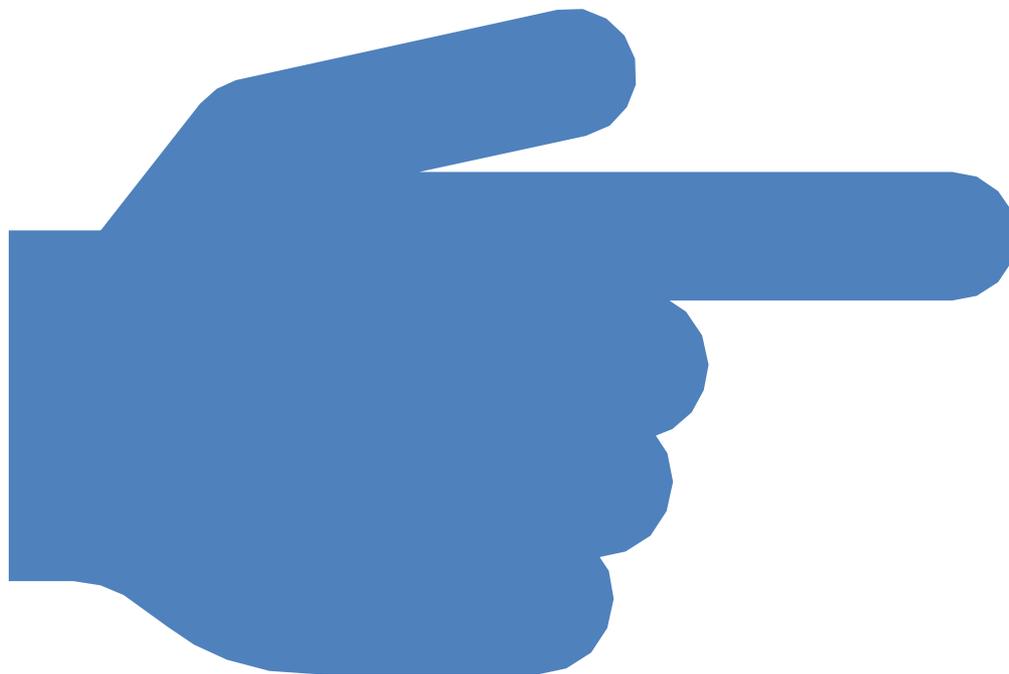
Summary of the quantity and duration of appeals for last 6 years (2012-2017—fiscal year) at the Environmental Division

YEAR	PERMIT APPEALS		JO APPEALS		COMBINED (Permit and JO Appeals)	
	Appeals to E-Division	Average duration at E-Division	Appeals to E-Division	Average duration at E-Division	Appeals to E-Division	Average duration at E-Division
2017	7	160*	13	126**	20	143
2016	4	373	6	291	10	332
2015	13	334	2	134	15	234
2014	12	471	0	n/a	12	471
2013	15	375	5	562	20	469
2012	9	537	1	183	10	360
6 year average	10.0	375.0	4.5	259.2	14.5	334.8

* 2017 Average duration includes only 4 cases (3 not yet decided at time of printing)

** 2017 Average duration includes only 10 cases (3 not yet decided at time of printing)

Appeals—
former
Environmental
Board



Structure— Former Environmental Board



9 members appointed by the Governor



4 year term



Up to 5 alternates (former Board or District Commission members)



Members removable for cause



Chair serves at pleasure of governor



Chair of Board may appoint hearing officer or subcommittee to hear any appeal or petition before it.



Appeal fee to be paid to Environmental Board (\$100 in 2003).



Environmental Board to hear matters *de novo*.

Appeals—
Former
Environmental
Board



Heard appeals from
District Commission
permitting
decisions.



Heard appeals from
District Coordinator
jurisdictional
opinions.

Summary of the quantity and duration of appeals for the last 6 years (1999-2004—calendar years) of the Environmental Board

YEAR	PERMIT APPEALS		JO APPEALS		COMBINED (Permit and JO Appeals)	
	Appeals to EB	Average duration (Days) at EB	Appeals to EB	Average duration (Days) at EB	Appeals to EB	Average duration (Days) at EB
2004	21	237	13	338	34	288
2003	18	372	11	265	29	319
2002	18	226	17	179	35	203
2001	25	242	8	297	33	270
2000	32	249	9	446	41	348
1999	20	286	7	263	27	275
6 year average	22.3	268.7	10.8	298.0	33.2	283.8

Appeals—
*Proposed
Vermont
Environmental
Review Board*



Structure— Proposed VERB)



Structure is yet to be determined as of draft 5.3 (including membership, professional or semiprofessional, alternates, etc.)



Length of term is yet to be determined.



Use of alternates is to be determined.



Members removable for cause



Chair serves at pleasure of governor



Chair of Board may appoint hearing officer or subcommittee to hear any appeal or petition before it. Findings shall be rendered by majority of the Board



Environmental Board will hear matters *de novo*.
But appellant shall have burden on issues raised.

Appeals—Proposed VERB

 VERB will hear appeals from district commissions and district coordinators (though see 10 VSA 6089)

 VERB will hear appeals from ANR/DEC permitting.

 VERB will not hear enforcement matters.

 VERB will not hear appeals from rulemaking.

 VERB will not hear appeals from municipal boards

 Appeals from VERB to be heard by Supreme Court on the record.

 VERB will have authority to approve Regional Plans.

 Appeal fee to be paid to Environmental Board (\$250).

A dark, irregular ink blot with the word "Questions?" written in white in the center. The blot has a textured, splattered appearance with some lighter areas and small droplets around the edges. The background is white.

Questions?