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H.209

Introduced by Representatives Dickinson of St. Albans Town, Bock of
Chester, Burditt of West Rutland, Canfield of Fair Haven,
Cupoli of Rutland City, Devereux of Mount Holly, Gage of
Rutland City, Gamache of Swanton, Juskiewicz of Cambridge,
Kitzmiller of Montpelier, Lawrence of Lyndon, Myers of Essex,
Parent of St. Albans Town, Pearce of Richford, Potter of
Clarendon, Savage of Swanton, Shaw of Pittsford, Sibia of
Dover, Tate of Mendon, and Terenzini of Rutland Town

Referred to Committee on

Date:

Subject: Land use; natural resources; local bylaws; Act 250; Environmental
Division; permit process; appeals

Statement of purpose of bill as introduced: This bill proposes to reform
various land use and environmental permit processes.

An act relating to land use and environmental permit processing

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Municipal Planning and Zoning Provisions * * *

3 Sec. 1. 24 V.S.A. § 4420 is amended to read:

4 § 4420. LOCAL ACT 250 REVIEW OF MUNICIPAL IMPACTS

5 * * *

6 (c) In proceedings under this section, the applicant shall demonstrate that
7 the proposed development or subdivision:

8 (1) ~~Will~~ will not cause an unreasonable burden on the ability of the
9 municipality to provide educational services;

10 (2) ~~Will~~ will not cause an unreasonable burden on the ability of the
11 municipality to provide municipal or governmental services;

12 (3) ~~Is~~ is in conformance with the plan of the municipality adopted in
13 accordance with this chapter; and

14 (4) will not have an undue adverse effect on the scenic or natural beauty
15 or aesthetics of the municipality.

16 * * *

17 Sec. 2. 24 V.S.A. § 4463a is added to read:

18 § 4463a. COMPLETENESS OF APPLICATIONS

19 This section applies to all development review applications before an
20 appropriate municipal panel under this chapter. Within 45 days of referral or
21 appeal of an application from the administrative officer, or of direct

1 submission of an application by the applicant to an appropriate municipal panel
2 if such is otherwise authorized, the appropriate municipal panel shall issue a
3 determination of whether the application is complete, and failure of the panel
4 to issue such a determination within this period shall be deemed approval and
5 effective on the 46th day. The hearing and notice requirements of subsections
6 4464(a) and (b) of this title shall not apply to the panel's determination and
7 decision on whether an application is complete. If the panel determines that an
8 application is incomplete, it shall list each specific item that is missing and
9 provide the applicant reasonable time to amend its application. A decision
10 under this section on whether an application is complete shall be in writing and
11 shall be sent to the applicant by certified mail.

12 Sec. 3. 24 V.S.A. § 4464 is amended to read:

13 § 4464. HEARING AND NOTICE REQUIREMENTS; DECISIONS AND
14 CONDITIONS; REQUESTS FOR FORMAL REVIEW;
15 ADMINISTRATIVE REVIEW; ROLE OF ADVISORY
16 COMMISSIONS IN DEVELOPMENT REVIEW; CONCLUSIVE
17 WETLANDS PRESUMPTION

18 (a) Notice procedures. All development review applications before an
19 appropriate municipal panel under procedures set forth in this chapter shall
20 require notice as follows.

1 (1) A warned public hearing shall be required for conditional use
2 review, variances, administrative officer appeals, and final plat review for
3 subdivisions. Any public notice for a warned public hearing shall be given not
4 less than ~~15~~ 10 days prior to the date of the public hearing by all the following:

5 * * *

6 (b) Decisions.

7 (1) The appropriate municipal panel may recess the proceedings on any
8 application pending submission of additional information. The panel ~~should~~
9 shall close the evidence promptly after all parties have submitted the requested
10 information. The Notwithstanding any such recess or pending information
11 request, the panel shall adjourn the hearing and issue a decision within 45 days
12 after the adjournment of the hearing a determination that the application is
13 complete under section 4463a of this title, and failure of the panel to issue a
14 decision within this period shall be deemed approval and shall be effective on
15 the 46th day. However, with respect to an application that is subject to the
16 formal review procedure of subsection (e) of this section or is otherwise
17 conducted on the record under this chapter, the panel shall issue a decision
18 within 180 days of a determination that the application is complete under
19 section 4463a of this title, and failure of the panel to issue a decision within
20 this period shall be deemed approval and effective on the 181st day. Decisions
21 shall be issued in writing and shall include a statement of the factual bases on

1 which the appropriate municipal panel has made its conclusions and a
2 statement of the conclusions. The minutes of the meeting may suffice,
3 provided the factual bases and conclusions relating to the review standards are
4 provided in conformance with this subsection.

5 * * *

6 (e) Formal review. An appropriate municipal panel shall conduct a
7 proceeding on a development review application pursuant to chapter 36 of this
8 title if the application is complete and the applicant or an interested person
9 presents to the panel, during or before the first public hearing on the
10 application, a written request for formal review and recorded hearings. If the
11 request is made by an interested person, the request shall include a
12 demonstration that the person meets the definition of interested person set out
13 in subsection 4465(b) of this title. An appropriate municipal panel may reject
14 such a request only if the application is substantially incomplete or if the
15 requestor is not the applicant and the panel determines that the requestor does
16 not qualify as an interested person. Each of the following shall apply to the
17 review of an application for which a request under this subsection has been
18 made:

19 (1) If the request is made prior to the first public hearing on the
20 application, the appropriate municipal panel shall provide notice of the request
21 prior to that public hearing in accordance with the same notice procedures that

1 apply to the application under subsection (a) of this section except that, if the
2 request is received within 12 days prior to the hearing or prehearing
3 conference, the panel shall provide the maximum practicable days' notice of
4 the request.

5 (2) Provided that any extension complies with the provisions of
6 subdivision (b)(1) of this section, the panel shall extend the hearing schedule or
7 take other appropriate action as necessary to provide a fair and reasonable
8 opportunity for parties to prepare, present, and respond to evidence without
9 creating undue delay in the review of the application.

10 (3) The panel may require parties to submit prefiled testimony and
11 exhibits. If the panel requires submission of prefiled evidence, the applicant
12 and any interested persons supporting the application shall submit their
13 prefiled direct evidence first, and then other interested persons shall be given a
14 reasonable opportunity to submit their prefiled direct evidence. The panel may
15 then allow the submission or presentation of rebuttal testimony and exhibits in
16 the sequence and form that it reasonably determines to be appropriate.

17 (4) The panel shall make an audio-visual recording of any hearing on
18 the application that follows the request. In the event that appeal is taken from
19 the panel's act or decision on such an application, the panel shall provide the
20 Environmental Division with the original recording of the hearing and a copy

1 of the complete written record and shall make and preserve a copy of the
2 original recording for the purpose of keeping a record.

3 (5) All incremental costs incurred by an appropriate municipal panel
4 with respect to a request under this subsection, including the cost of the
5 recording, shall be borne by the party that requested formal review and
6 recorded hearings. Such a panel may require such a requestor to post a bond,
7 payable to the applicable municipality, in the estimated amount of those costs.
8 As used in this section, the term “incremental costs” means those costs
9 incurred by a panel beyond the costs it would incur if the application were
10 reviewed in the manner otherwise provided by this chapter.

11 (f) Conclusive wetlands presumption. With respect to a wetland that is
12 subject to the rules of the Secretary of Natural Resources pursuant to 10 V.S.A.
13 § 913(a), the issuance of a final decision on an application for a permit, a
14 conditional use determination, or other approval under those rules shall create
15 a conclusive presumption concerning the wetland in any proceeding before an
16 appropriate municipal panel. If the final decision on the application under
17 those rules is affirmative, this presumption shall be that the activity in the
18 wetland or its buffer zone authorized in the permit, conditional use
19 determination, or other approval complies with any provisions related to
20 wetlands contained in the applicable bylaw, provided that all conditions of the
21 permit, conditional use determination, or other approval are met. If the final

1 decision on the application under those rules is negative, this presumption shall
2 be that the proposed activity in the wetland or its buffer zone does not comply
3 with any provisions related to wetlands contained in the applicable bylaw. As
4 used in this subsection, “final decision” means a decision for which the appeals
5 period has passed and no appeal was taken or on which appeal was taken and
6 the appeal or appeals have been conclusively determined.

7 Sec. 4. 24 V.S.A. § 4471 is amended to read:

8 § 4471. APPEAL TO ENVIRONMENTAL DIVISION

9 * * *

10 (b) Appeal on the record.

11 (1) If the municipal legislative body has determined (or been instructed
12 by the voters) to provide that appeals of certain appropriate municipal panel
13 determinations shall be on the record, has defined what magnitude or nature of
14 development proposal shall be subject to the production of an adequate record
15 by the panel, and has provided that the municipal administrative procedure act
16 shall apply in these instances, then an appeal from such a decision of an
17 appropriate municipal panel shall be taken on the record in accordance with the
18 Vermont Rules of Civil Procedure.

19 (2) Notwithstanding subdivision (1) of this subsection, an appeal from a
20 decision of an appropriate municipal panel shall be taken on the record in

1 accordance with the Vermont Rules of Civil Procedure when the decision
2 results from a formal review under subsection 4464(e) of this title.

3 * * *

4 * * * Act 250 Provisions * * *

5 Sec. 5. 10 V.S.A. § 6001 is amended to read:

6 § 6001. DEFINITIONS

7 ~~In~~ As used in this chapter:

8 * * *

9 (11) “Lot” means any undivided interest in land, whether freehold or
10 leasehold, including interests created by trusts, partnerships, corporations,
11 cotenancies, and contracts. For the purpose of determining whether a person
12 has partitioned or divided land into the number of lots necessary to create a
13 subdivision under this chapter, “lot” shall not include an undivided interest in
14 land that consists solely of a road to serve one or more lots or that is to be held
15 in common for the benefit of multiple adjacent lots through deed or other
16 enforceable legal restriction.

17 * * *

18 (16)(A) ~~“Existing settlement” means an area that constitutes one of the~~
19 ~~following:~~

20 (i) ~~a designated center; or~~

1 counted in relation to other lots partitioned or divided by the person within the
2 same district, center, or neighborhood.

3 (ii) A tract or tracts of land, owned or controlled by a person,
4 which the person has partitioned or divided for the purpose of resale into six or
5 more lots, within a continuous period of five years, in a municipality which
6 does not have duly adopted permanent zoning and subdivision bylaws.

7 (iii) A tract or tracts of land, owned or controlled by a person,
8 which have been partitioned or divided for the purpose of resale into five or
9 more separate parcels of any size within a radius of five miles of any point on
10 any such parcel, and within any period of ten years, by public auction.

11 (I) In this subdivision (iii), “public auction” means any auction
12 advertised or publicized in any manner, or to which more than ten persons
13 have been invited.

14 (II) If sales described under this subdivision (iii) are of interests
15 that, when sold by means other than public auction, are exempt from the
16 provisions of this chapter under the provisions of subsection 6081(b) of this
17 title, the fact that these interests are sold by means of a public auction shall not,
18 in itself, create a requirement for a permit under this chapter.

19 (B) The word “subdivision” shall not include each of the following:

1 (i) a lot or lots created for the purpose of conveyance to the State
2 or to a qualified organization, as defined under section 6301a of this title, if the
3 land to be transferred includes and will preserve a segment of the Long Trail;

4 (ii) a lot or lots created for the purpose of conveyance to the State
5 or to a “qualified holder” of “conservation rights and interest,” as defined in
6 section 821 of this title;

7 (iii) a lot or lots created for the purpose of conveyance to a person
8 for whom a nonprofit organization will construct or rehabilitate residential
9 housing on the lot, if all of the following apply:

10 (I) The organization qualifies under Section 501(c)(3) of the
11 Internal Revenue Code of 1986, as amended, provided that a principal purpose
12 of the organization is the construction and rehabilitation of housing and the
13 provision of such housing based on need.

14 (II) The organization selected on the basis of need the person to
15 whom the lot will be conveyed.

16 (III) The organization will provide the person with a
17 no-interest, no-profit loan for the housing to be constructed or rehabilitated on
18 the lot and will use the mortgage payments on the loan to build or rehabilitate
19 additional housing for persons selected on the basis of need.

20 * * *

1 ~~the~~ statutory time limits; identify areas ~~which~~ that hinder effective
2 performance; list fees collected for each permit; summarize changes made to
3 improve performance; and describe staffing needs for the coming year. The
4 annual report shall list the number of enforcement actions taken by the Board,
5 the disposition of such cases, and the amount of penalties collected. The
6 provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to
7 the report to be made under this subsection.

8 * * *

9 Sec. 7. 10 V.S.A. § 6084 is amended to read:

10 § 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF
11 REVIEW

12 * * *

13 (b) A determination on whether the application is complete shall be made
14 within 45 days of receipt. Such a determination shall be issued in writing in
15 accordance with the rules of the Board. If the determination is that an
16 application is not complete, the determination shall list each specific item that
17 is missing and provide the applicant a reasonable period of time to amend the
18 application. Upon an application being ruled complete, the District
19 Commission shall determine whether to process the application as a major
20 application with a required public hearing or process the application as a minor

1 application with the potential for a public hearing in accordance with Board
2 rules.

3 * * *

4 (d) ~~Any hearing or prehearing conference for a major application shall be~~
5 ~~held within 40 days of receipt of a complete application; or within 20 days of~~
6 ~~the end of the public comment period specified in the notice of minor~~
7 ~~application review if the District Commission determines that it is appropriate~~
8 ~~to hold a hearing for a minor application. A decision on any application under~~
9 ~~this chapter shall be rendered within 45 days of a determination that the~~
10 ~~application is complete, and failure of the District Commission to issue a~~
11 ~~decision within this period shall be deemed approval and shall be effective on~~
12 ~~the 46th day. However, with respect to an application that is subject to the~~
13 ~~formal review procedure of section 6085a of this title, the District Commission~~
14 ~~shall issue a decision within 180 days of a determination that the application is~~
15 ~~complete, and failure of the District Commission to issue a decision within this~~
16 ~~period shall be deemed approval and shall be effective on the 181st day.~~

17 * * *

18 Sec. 8. 10 V.S.A. § 6085a is added to read:

19 § 6085a. FORMAL REVIEW AND RECORDED HEARINGS

20 (a) A District Commission shall conduct a proceeding on an application for
21 development or subdivision in accordance with this section if the application is

1 complete and has been determined to be a major application under section
2 6084 of this title, and the applicant or a person qualifying for party status
3 presents to the District Commission, during or before the initial hearing or
4 prehearing conference on the application, a written request for formal review
5 and recorded hearings. If the request is made by a person other than the
6 applicant, the request shall include a demonstration that the person qualifies for
7 party status under section 6085 of this title and the rules of the Board. A
8 District Commission may reject such a request only if the application is
9 substantially incomplete or if the requestor is not the applicant and the District
10 Commission determines that the requestor does not qualify for party status.

11 (b) Each of the following shall apply to the review of an application for
12 which a request under this subsection has been made:

13 (1) If the request is made prior to the initial hearing or prehearing
14 conference on the application, the District Commission shall provide notice of
15 the request prior to such hearing or conference in accordance with the same
16 notice procedures that apply to the application under section 6084 of this title,
17 except that, if the request is received within 12 days prior to the hearing or
18 prehearing conference, the District Commission shall provide the maximum
19 practicable days' notice of the request.

20 (2) Provided that any extension complies with the provisions of
21 subsection 6084(d) of this title, the District Commission shall extend the

1 hearing schedule or take other appropriate action as necessary to provide a fair
2 and reasonable opportunity for parties to prepare, present, and respond to
3 evidence without creating undue delay in the review of the application.

4 (3) The District Commission may require parties to submit prefiled
5 testimony and exhibits. If the District Commission requires submission of
6 prefiled evidence, the applicant and any parties supporting the application shall
7 submit their prefiled direct evidence first, and then other parties shall be given
8 a reasonable opportunity to submit their prefiled direct evidence. The District
9 Commission may then allow the submission or presentation of rebuttal
10 testimony and exhibits in the sequence and form that it reasonably determines
11 to be appropriate.

12 (4) Unless the parties agree otherwise, the District Commission in a
13 prehearing order shall establish the type, sequence, and amount of discovery
14 available under Rules 26–37 of the Vermont Rules of Civil Procedure, limiting
15 the discovery permitted to that necessary for a full and fair determination of the
16 proceeding.

17 (c) During proceedings on an application under this section, the District
18 Commission shall maintain the flexibility regarding the introduction of
19 evidence provided by 3 V.S.A. § 810 and the procedural flexibility and
20 informality that has been characteristic of District Commission proceedings.

1 (d) On receipt of a request from the District Commission for assistance
2 with regard to an application under this section, the Board shall provide
3 assistance to the District Commission as necessary.

4 (e) The District Commission shall make an audio-visual recording of any
5 hearing on an application that is heard under this section. In the event that
6 appeal is taken from a District Commission act or decision on such an
7 application, the District Commission shall provide the Environmental Division
8 with the original recording of the hearing and a copy of the complete written
9 record and shall make and preserve a copy of the original recording for the
10 purpose of keeping a record.

11 (f) All incremental costs incurred by a District Commission with respect to
12 a request under this section, including the cost of video recording, shall be
13 borne by the party that requested formal review and recorded hearings. A
14 District Commission may require such a requestor to post a bond, payable to
15 the applicable municipality, in the estimated amount of those costs. As used in
16 this section, the term “incremental costs” means those costs incurred by a
17 District Commission beyond the costs it would incur if the application were
18 reviewed in the manner otherwise provided by this chapter.

1 Sec. 9. 10 V.S.A. § 6086 is amended to read:

2 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

3 (a) Before granting a permit, the District Commission shall find that the
4 subdivision or development:

5 * * *

6 (9) Is in conformance with a duly adopted capability and development
7 plan, and land use plan when adopted. However, the legislative findings of
8 1973 Acts and Resolves No. 85 subdivisions 7(a)(1) through (19) ~~of Act 85 of~~
9 ~~1973~~ shall not be used as criteria in the consideration of applications by a
10 District Commission.

11 * * *

12 (L) ~~Settlement patterns. To promote Vermont's historic settlement~~
13 ~~pattern of compact village and urban centers separated by rural countryside, a~~
14 ~~permit will be granted for a development or subdivision outside an existing~~
15 ~~settlement when it is demonstrated by the applicant that, in addition to all other~~
16 ~~applicable criteria, the development or subdivision:~~

17 (i) ~~will make efficient use of land, energy, roads, utilities, and~~
18 ~~other supporting infrastructure; and~~

19 (ii) ~~(I) will not contribute to a pattern of strip development along~~
20 ~~public highways; or~~

1 under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review
2 of municipal impacts. The acceptance of such approval, positive
3 determinations, permit, or permits shall create a presumption that the
4 application is not detrimental to the public health and welfare with respect to
5 the specific requirement for which it is accepted. In the case of a permit or
6 approval issued by a federal agency, or a permit or approval issued by a State
7 agency that is subject to appeal under chapter 220 of this title, this presumption
8 may be rebutted only by a clear and convincing showing that the agency's
9 issuance of the permit or other approval was arbitrary or capricious. In the
10 case of approvals and permits issued by the Agency of Natural Resources,
11 technical determinations of the Agency shall be accorded substantial deference
12 by the Commissions. The acceptance of negative determinations issued by a
13 development review board under the provisions of 24 V.S.A. § 4420, with
14 respect to local Act 250 review of municipal impacts shall create a
15 presumption that the application is detrimental to the public health and welfare
16 with respect to the specific requirement for which it is accepted. Any
17 determinations, positive or negative, under the provisions of 24 V.S.A. § 4420
18 shall create presumptions only to the extent that the impacts under the criteria
19 are limited to the municipality issuing the decision. Such a rule may be
20 revoked or amended pursuant to the procedures set forth in 3 V.S.A., chapter
21 25, the Vermont Administrative Procedure Act. The rules adopted by the

1 Board shall not approve the acceptance of a permit or approval of such an
2 agency or of a permit of a municipal government unless it satisfies the
3 appropriate requirements of subsection (a) of this section.

4 (2) The rules adopted by the Board under subdivision (1) of this
5 subsection shall provide that a certification by a qualified professional engineer
6 or architect, or other qualified professional, may be submitted by the applicant
7 in lieu of evidence under specified subdivisions of subsection (a) of this
8 section. Each of the following shall apply to such certifications:

9 (A) The rules shall identify each subdivision of subsection (a) of this
10 section for which a certification may be provided. At a minimum, the rules
11 shall provide for such certifications with respect to subdivisions (a)(1) through
12 (5) and (8) (as to scenic or natural beauty or aesthetics) of this section.

13 (B) With respect to each such subdivision of subsection (a) of this
14 section, identify each profession that is qualified to provide a certification that
15 satisfies the requirements of the subdivision and, for each such profession,
16 state the credentials, including licensing necessary to demonstrate that
17 qualification.

18 (C) A person making a certification under this subdivision (d)(2) may
19 be held liable for violation of this chapter if he or she makes an erroneous
20 certification that is offered in a proceeding under this chapter, and he or she
21 made the erroneous certification willfully or recklessly or did not follow the

1 standard of care normally exercised by a member of the same profession in
2 similar circumstances. In a proceeding under this chapter, a determination that
3 a certification is rebutted shall not be sufficient to demonstrate a violation
4 under this subdivision (2).

5 * * *

6 * * * Appeal and Environmental Division Provisions * * *

7 Sec. 10. 4 V.S.A. § 1001 is amended to read:

8 § 1001. ENVIRONMENTAL DIVISION

9 * * *

10 (f) The Environmental Division shall be provided with a dedicated
11 minimum of one court manager, two hearing officers appointed for a term of
12 six years by the Administrative judge from among the attorneys admitted to
13 practice in Vermont, two law clerks, and two docket clerk-courtroom
14 operators. These positions shall not be subject to any rotation with other
15 courts. The Environmental Division shall receive the same funding and
16 provisions for security as provided to county courthouses.

17 * * *

18 Sec. 11. 4 V.S.A. § 1005 is added to read:

19 § 1005. REFERRAL TO HEARING OFFICER

20 An Environmental judge may refer a matter before the Environmental
21 Division to an Environmental Division hearing officer if such referral is likely

1 to expedite the matter, and the matter is not likely to result in a decision of
2 significant precedential importance. With respect to a matter so referred, the
3 hearing officer shall be the presiding officer and shall have the same powers in
4 presiding over the matter as would an Environmental judge, including
5 scheduling, conducting trials and hearings, and the issuance of subpoenas, of
6 procedural orders, and of decisions on discovery disputes. Any decision by the
7 hearing officer that is dispositive of the matter and adverse to one or more
8 parties to the proceeding shall be issued as a proposal for decision that is
9 served upon the parties, and an opportunity shall be afforded to each party to
10 file exceptions and present briefs and oral argument to an Environmental
11 judge. A decision by the hearing officer that is dispositive of the matter and is
12 not adverse to one or more parties to the proceeding also shall be issued as a
13 proposal for decision, but an opportunity for parties to file exceptions and
14 briefs and present oral argument shall not be required. A proposal for decision
15 under this section shall contain a statement of the reasons for and of each issue
16 of fact or law necessary to the proposed decision. Upon issuance by a hearing
17 officer of a proposal for decision, the matter promptly shall be returned to an
18 Environmental judge for final decision.

19 Sec. 12. POSITION TRANSFERS

20 Effective on July 1, 2018, one associate general counsel position at the
21 Natural Resources Board is transferred to the Environmental Division to be an

1 Environmental Division hearing officer. The position of case manager to the
2 Environmental Division shall be used for the other position of Environmental
3 Division hearing officer. The Administrative judge may commence
4 recruitment for these positions prior to July 1, 2018 and shall appoint the
5 hearing officers as soon as possible on or after that date. Such hearing officers
6 shall be exempt from the classified service, with a salary to be the same as that
7 of a Judicial Bureau hearing officer under 32 V.S.A. § 1003.

8 Sec. 13. 10 V.S.A. § 8504 is amended to read:

9 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

10 * * *

11 (h) ~~De novo~~ Burden of proof; de novo hearing; record review. In any
12 appeal before the Environmental Division, the burden of proof shall be on the
13 appellant. An appellant that is not the applicant may meet this burden initially
14 through evidence or argument concerning the project as described in the
15 decision being appealed or as described by the applicant in the proceeding
16 from which the appeal is taken. The Environmental Division, applying the
17 substantive standards that were applicable before the tribunal appealed from,
18 shall hold a de novo hearing on those issues which have been appealed, except
19 in the case of:

20 (1) a A decision being appealed on the record pursuant to 24 V.S.A.
21 chapter 117;

1 Resources Board need not have participated before the Commission or
2 coordinator.

3 (4) ~~is~~ The person is a person aggrieved, as defined in this chapter;

4 (5) ~~qualifies~~ The person qualifies as an “interested person,” as
5 established in 24 V.S.A. § 4465, with respect to appeals under 24 V.S.A.
6 chapter 117; ~~or.~~

7 (6) ~~meets~~ The person meets the standard for intervention established in
8 the Vermont Rules of Civil Procedure.

9 * * *

10 * * * Other Provisions * * *

11 Sec. 14. 3 V.S.A. § 2822 is amended to read:

12 § 2822. BUDGET AND REPORT; POWERS

13 * * *

14 (f)(1) Simplified applications and minor projects. For any Agency
15 program, the Secretary may provide for simplified application forms and
16 procedures for minor projects.

17 (2) Consolidated applications and decisions. For projects requiring
18 multiple permits or other approvals from the Agency, the Secretary may create
19 a consolidated application form that allows an applicant to elect to apply in one
20 application for multiple Agency permits and approvals. For any such
21 application, the Agency may consolidate notice and procedure by using the

1 most stringent notice and procedural requirements pertinent to the applicable
2 Agency permits and approvals and may issue a consolidated decision with
3 respect to applicable Agency permits and approvals.

4 (g) The Secretary shall make all practical efforts to process permits in a
5 prompt manner. ~~The Secretary shall establish time limits for the processing of~~
6 ~~each permit as well as procedures and time periods within which to notify~~
7 ~~applicants whether an application is complete.~~ A determination on whether an
8 application or amended application to the Agency for a permit, certificate, or
9 other similar approval is complete shall be made within 45 days of receipt. If
10 the Agency determines that an application is not complete, it shall list each
11 specific item that is missing and provide the applicant a reasonable period of
12 time to amend its application. A decision on any application to the Agency for
13 a permit, certificate, or other similar approval shall be rendered within 45 days
14 of a determination that the application is complete, and failure of the Agency
15 to issue a decision within this period shall be deemed approval and shall be
16 effective on the 46th day unless such deemed approval would conflict with the
17 requirements of a delegated federal program. The Secretary shall report no
18 later than the third Tuesday of each annual legislative session to the General
19 Assembly by electronic submission. The annual report shall assess the
20 Agency's performance in meeting the limits; identify areas which hinder
21 effective Agency performance; list fees collected for each permit; summarize

1 changes made by the Agency to improve performance; describe staffing needs
2 for the coming year; certify that the revenue from the fees collected is at least
3 equal to the costs associated with those positions; and discuss the operation of
4 the Agency during the preceding fiscal year and the future goals and objectives
5 of the Agency. The provisions of 2 V.S.A. § 20(d) (expiration of required
6 reports) shall not apply to the report to be made under this subsection. This
7 report is in addition to the fee report and request required by 32 V.S.A.
8 chapter 7, subchapter 6.

9 * * *

10 * * * Effective Dates * * *

11 Sec. 15. EFFECTIVE DATES

12 This act shall take effect on July 1, 2017, except that this section and

13 Sec. 12 shall take effect on passage.