Rule 6.1. VOLUNTARY PRO BONO PUBLICO SERVICE.

Vermont Rules
SUPREME COURT ADMINISTRATIVE ORDERS AND RULES
RULES OF PROFESSIONAL CONDUCT
PUBLIC SERVICE

As amended through July 16, 2014

Rule 6.1. VOLUNTARY PRO BONO PUBLICO SERVICE

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:
   (1) persons of limited means; or
   (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:
   (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
   (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
   (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.


Note: Comment

[1] Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. The Vermont Supreme Court urges all lawyers to provide a minimum of 50 hours of pro bono services annually. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of his or her legal career, each lawyer should render, on average per year, the number of hours set forth in this rule. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation, such as divorce and family law matters.

[2] Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means by providing that a substantial majority of the legal services rendered annually to the disadvantaged be furnished without fee or expectation of fee. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making and the provision of free training or mentoring to those who represent persons of limited means. The variety of these activities should facilitate participation by government lawyers, even when restrictions exist on their engaging in the
outside practice of law.

[3] Persons eligible for legal services under paragraphs (a)(1) and (2) are those who qualify for participation in programs funded by the Legal Services Corporation and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but nevertheless cannot afford counsel. Legal services can be rendered to individuals or to organizations such as homeless shelters, battered women's centers and food pantries that serve those of limited means. The term "governmental organizations" includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

[4] Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys' fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

[5] While it is possible for a lawyer to fulfill the annual responsibility to perform pro bono services exclusively through activities described in paragraphs (a)(1) and (2), to the extent that any hours of service remained unfulfilled, the remaining commitment can be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory or regulatory restrictions may prohibit or impede government and public sector lawyers and judges from performing the pro bono services outlined in paragraphs (a)(1) and (2). Accordingly, where those restrictions apply, government and public sector lawyers and judges may fulfill their pro bono responsibility by performing services outlined in paragraph (b).

[6] Paragraph (b)(1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural and religious groups.

[7] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this section.

[8] Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving on bar association committees, serving on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator and engaging in legislative lobbying to improve the law, the legal system or the profession are a few examples of the many activities that fall within this paragraph.

[9] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

[10] Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted additional programs to provide
those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible.

[11] Law firms should act reasonably to enable and encourage all lawyers in the firm to provide the pro bono legal services called for by this rule.

[12] The responsibility set forth in this rule is not intended to be enforced through disciplinary process.

**Reporter's Notes-2009 Amendment**

V.R.P.C. 6.1 is amended to conform to the changes in the Model Rule. In Vermont Comment [1], "Vermont Supreme Court" is substituted for "American Bar Association," emphasizing the importance that the Court attaches to pro bono service, and the parentheses have been removed from the number "50" in the rule, reflecting adoption of that minimum service goal. The added sentence at the end of Comment [9] restores language omitted without explanation when the Vermont rule was adopted.

The ABA Reporter's Explanation is as follows:

**TEXT:**

The Commission has added a sentence at the beginning of the Rule to give greater prominence to the proposition that every lawyer has a professional responsibility to provide legal services to persons unable to pay. The point is [also] made in . . . Comment [1].

**COMMENT:**

[11] This new Comment calls upon law firms to act reasonably to enable all lawyers in the firm to provide the pro bono legal services called for by the Rule.
Rule 6.2. ACCEPTING APPOINTMENTS.

Vermont Rules

SUPREME COURT ADMINISTRATIVE ORDERS AND RULES

RULES OF PROFESSIONAL CONDUCT

PUBLIC SERVICE

As amended through July 16, 2014

Rule 6.2. ACCEPTING APPOINTMENTS

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:

(a) representing the client is likely to result in violation of the Rules of Professional Conduct or other law;

(b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or

(c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

Note: Comment

[1] A lawyer ordinarily is not obliged to accept a client whose character or cause the lawyer regards as repugnant. The lawyer's freedom to select clients is, however, qualified. All lawyers have a responsibility to assist in providing pro bono publico service. See Rule 6.1. An individual lawyer fulfills this responsibility by accepting a fair share of unpopular matters or indigent or unpopular clients. A lawyer may also be subject to appointment by a court to serve unpopular clients or persons unable to afford legal services.

Appointed Counsel

[2] For good cause a lawyer may seek to decline an appointment to represent a person who cannot afford to retain counsel or whose cause is unpopular. Good cause exists if the lawyer could not handle the matter competently, see Rule 1.1, or if undertaking the representation would result in an improper conflict of interest, for example, when the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client. A lawyer may also seek to decline an appointment if acceptance would be unreasonably burdensome, for example, when it would impose a financial sacrifice so great as to be unjust.

[3] An appointed lawyer has the same obligations to the client as retained counsel, including the obligations of loyalty
and confidentiality, and is subject to the same limitations on the client-lawyer relationship, such as the obligation to refrain from assisting the client in violation of the rules.

**Reporter's Notes-2009 Amendment**

There are no changes to Model Rule 6.2 or its comment. The only change in the Vermont rule is the insertion of the bracketed numbers to designate the paragraphs of the comment.
Rule 79.1. Appearance and Withdrawal of Attorneys.

Vermont Rules

RULES OF CIVIL PROCEDURE

X. SUPERIOR COURTS AND CLERKS; ATTORNEYS

As amended through July 16, 2014

Rule 79.1. Appearance and Withdrawal of Attorneys

(a) Appearance: In General. Upon the filing of an action or appeal the name of the attorney of the plaintiff or appellant shall be entered on the docket. If any party changes an attorney pending the suit, the name of the new attorney shall be substituted on the docket for that of the former attorney. Until notice of the change of an attorney, all notice given to or by the attorney first appointed shall be considered in all respects as notice to or from the client, except in cases in which by law the notice is required to be given to the party personally. Nothing in these rules shall be construed to prevent any party in a suit from appearing for himself or herself, in which case the party so appearing shall be subject to the same rules that are or may be provided for attorneys in like cases, so far as the same are applicable.

(b) Same: Form; Service. An attorney's signature to a pleading shall constitute an appearance. Otherwise an attorney who wishes to participate in any action must appear in open court, or file notice in writing with the clerk, which shall be served pursuant to Rule 5. Appearances entered in open court shall be confirmed in writing and served within five days. An appearance, whether by pleading or formal written appearance, shall be signed by an attorney in the attorney's individual name and shall state the attorney's office address.

(c) Same: Multiple Parties. In entering appearance for defendants, attorneys shall specify, and the clerk shall enter upon the docket, for whom they appear, if there is more than one defendant. An appearance for the plaintiffs or the defendants, as the case may be, where there are several, shall be deemed to be an appearance for all, unless stated to be for one or more only, and so entered upon the docket by the clerk.

(d) Parties Appearing Pro Se. When a party not an attorney of the court prosecutes or defends in the party's own proper person, the party shall comply with subdivision (b) of this rule.

(e) Attorneys Not Admitted to Practice in Vermont. Any member in good standing of the bar of any other state or of the District of Columbia who has filed a pro hac vice licensing statement form with the Court Administrator and who has paid the required fee, in accordance with Administrative Order No. 41, § 13, may, in the discretion of the court on motion by a member of the bar of this
state who is actively associated with that attorney in a particular action, be admitted to practice in that action. The motion shall designate which attorney will serve as lead counsel. The court may at any time for good cause revoke such admission. An attorney so admitted to practice in a particular action shall at all times be associated in such action with a member of the bar of this state, upon whom all process, notices and other papers shall be served and who shall sign all papers filed with the court and whose attendance may be required by the court.

(f) Withdrawal: In General. When an attorney has entered an appearance the attorney shall remain as counsel until the attorney has been granted leave to withdraw by the court. Such leave shall be granted as a matter of course after a judgment becomes final. Leave to withdraw after a case has been set for trial will be granted only for good cause shown and on such terms as the court may order. No motion to withdraw shall be considered by the court until the party has been given notice of the motion and the date and time of hearing thereon by the clerk. The only exceptions to this shall be (1) when the attorney includes in the motion an affidavit that after diligent search the attorney cannot determine the present address of the party, and (2) when other counsel has entered an appearance for the party.

(g) Same: Notification of Party. When an attorney has been granted leave to withdraw the attorney’s appearance, the clerk shall notify the party forthwith, electronically if the party is a registered filer under the Vermont Rules for Electronic Filing, otherwise by mail, of such withdrawal, and inform said party that unless the party appears pro se or by attorney within thirty days after receipt of such notification, the action will be dismissed or defaulted, as the case may be.

(h) Limited Appearance.

(1) An attorney acting pursuant to an agreement with a client for limited representation that complies with the Vermont Rules of Professional Conduct may enter an appearance limited to one or more of the following purposes on behalf of a client who is pro se and who has entered, or will enter, a general appearance:

(A) Filing a complaint or other pleading.

(B) Filing or arguing a specific motion or motions.

(C) Conducting one or more specific discovery procedures.

(D) Participating in a pretrial conference or an alternative dispute resolution proceeding.

(E) Acting as counsel for a particular hearing or trial.

(F) Taking and perfecting an appeal.
(G) With leave of court, for a specific issue or a specific portion of a trial or hearing.

(2) An attorney who wishes to enter a limited appearance shall do so by filing with the clerk and serving pursuant to Rule 5 a written notice of limited appearance as soon as practicable prior to commencement of the appearance. The purpose and scope of the appearance shall be specifically described in the notice, which shall represent that the client is pro se and has entered, or will forthwith enter, a general appearance. The attorney's name and a brief statement of the purpose of the limited appearance shall be entered upon the docket. The notice and all actions taken pursuant to it shall be subject to the obligations of Rule 11.

(3) An attorney who has entered a limited appearance shall be granted leave to withdraw as a matter of course when the purpose for which the appearance was entered has been accomplished. An attorney who seeks to withdraw before that purpose has been accomplished may do so only on motion and notice, for good cause and on terms, as provided in Rule 79.1(f).

(4) Every paper required by Rule 5 to be served upon a party's attorney that is to be served after entry of a limited appearance shall be served upon the party and upon the attorney entering that appearance unless the attorney has been granted leave to withdraw pursuant to paragraph (3) of this subdivision.

(i) Attorney License Number; eCabinet Registration Number. Any document that constitutes a first appearance of an attorney shall contain, in addition to the name of the appearing attorney, the eCabinet registration number assigned to that attorney on registering an e-mail address pursuant to Rule 3 of the Vermont Rules for Electronic Filing.


Note:
Reporter's Notes - 2009 Amendment

Rule 79.1(h), permitting a lawyer acting pursuant to a limited representation agreement with a pro se client to enter a limited appearance in the Superior Court ("unbundling"), is now made permanent. The rule was originally adopted by order of February 6, 2006, effective April 14, 2006, for a period of two years, extended until April 10, 2009, by order of March 13, 2008. At the direction of the Supreme Court, the Advisory Committee on Rules of Civil Procedure inquired about use of the rule and, with the assistance of the Vermont Bar Association, conducted a survey of practice under it. While the survey reflected relatively little use of limited appearance, a significant number of lawyers who used the procedure found it helpful, and there have been no reports of problems in its use. The rule has proven effective in achieving its original purposes of providing assistance of lawyers to courts and litigants at critical stages in trials or other proceedings and encouraging lawyers to take on pro bono representation. See Reporter's Notes to 2006 amendment adopting the rule. It may be anticipated that greater familiarity with the rule and growing interest at the bar
in providing pro bono representation will lead to increased use of the unbundling procedure.
Rule 15. Appearance and Withdrawal of Attorneys.

Vermont Rules

RULES FOR FAMILY PROCEEDINGS

As amended through July 16, 2014

Rule 15. Appearance and Withdrawal of Attorneys

(a) Appearance: In General. This rule applies to all proceedings under Family Rules 2, 3, 4 and 9.

(1) Entry; Effect.

(A) Upon the entry of an appearance in accordance with paragraph (2) or (4) of this subdivision, or with subdivision (g), or the entry of a limited appearance under subdivision (h), the name of the attorney appearing or the words "pro se," as appropriate, shall be entered on the docket. If the representation of any party changes during the pendency of the action, the name of the new attorney or the words "pro se," as appropriate, shall be substituted on the docket for the previous entry.

(B) Entry of an appearance by an attorney or a party pro se in accordance with this rule shall be deemed a designation by the party of the person upon whom all service is to be made and to whom all notices are to be sent by the court or other parties, except in cases in which by law the notice is required to be given to the party personally. The designation shall remain in effect until an attorney who has appeared withdraws pursuant to subdivision (f) or until an attorney enters an appearance for a party who had previously appeared pro se.

(2) Form; Service. Except as provided in a limited appearance under subdivision (h), an attorney's signature to a pleading or motion shall constitute an appearance. Otherwise an attorney who wishes to participate in any action must appear in open court, or file notice in writing with the clerk, which shall be served pursuant to Civil Rule 5. Appearances entered in open court shall be confirmed in writing and served within five days. An appearance, whether by pleading or motion or by formal written appearance, shall be signed by an attorney in the attorney's individual name and shall state the attorney's office address.

(3) Multiple Parties. In entering appearances when there are multiple parties, attorneys shall specify, and the clerk shall enter upon the docket, for whom they appear. An appearance for the plaintiffs or the defendants, as the case may be, shall be deemed to be an appearance for all, unless stated to be for one or more only, and so entered upon the docket by the clerk.
Parties Appearing Pro Se. A party may make an initial appearance pro se by signing a pleading or motion, by appearing in open court if no pleading or motion is required, or by filing a signed notice with the clerk, which shall be served pursuant to Civil Rule 5. Initial appearances entered in open court shall be confirmed in writing and served within 5 days. An initial pro se appearance, whether by pleading or formal written appearance, shall state the party's current mailing address and telephone number. A pro se party shall advise the clerk of any change of address or telephone number. When a party appears pro se, the clerk shall provide that party information concerning the responsibilities of a pro se party and a form upon which the party may notify the clerk of any change of address or telephone number.

Continuances to Secure Counsel. Except as provided in Rule 9(h), when no attorney has entered an appearance for a party by the date of a scheduled hearing, the hearing shall not be continued to enable that party to secure counsel unless that party has not had reasonable opportunity to secure counsel, or unless an appropriate order for temporary relief is entered.

(a) Same: Divorce, Parentage, and Other Actions under Rule 4. The appearance of an attorney for a party in a divorce, parentage, or other action under Rule 4 shall constitute the attorney’s appearance for that party in all related matters in the Family Court, except when otherwise provided in subdivisions (c), and (d), and in a limited appearance under subdivision (h).

(c) Same: Abuse Prevention Actions.

(1) An attorney who has entered an appearance for any party in an abuse prevention action shall not be obliged to appear in a subsequently filed divorce, parentage, or other action under Rule 4 unless the final hearing on the abuse prevention order is consolidated with a hearing for temporary relief in the action under Rule 4. In the event of such a consolidation, the attorney must represent the party for all purposes at that hearing. After entry of the final order in the abuse prevention action, the attorney shall not be obliged to undertake further representation of the party in the action under Rule 4 unless the attorney enters a separate appearance in that action.

(2) Except as may be otherwise agreed or ordered pursuant to a limited appearance under subdivision (h), an attorney who has entered an appearance for any party in an abuse prevention action shall be obliged to appear in a previously filed divorce, parentage, or other action under Rule 4 if the relief sought in the abuse prevention action would have the effect of modifying an order previously entered in the action under Rule 4.

(3) Except as may be otherwise agreed or ordered pursuant to a limited appearance under subdivision (h), the appearance of an attorney for any party in a divorce, parentage, or other action under Rule 4 shall be deemed an appearance for that party in an abuse prevention action subsequently filed pro se by that party during the pendency of the original action. When an abuse prevention action is filed pro se, the clerk, subsequent to the issuance of any order, shall notify all counsel of record and parties in any pending divorce, parentage, or other action under Rule 4.
between the parties to the abuse prevention action.

(d) Same: Child Support Hearings. Except as may be otherwise agreed or ordered pursuant to a limited appearance under subdivision (h), an attorney who has entered an appearance for any party in a divorce, parentage, or other action under Rule 4 shall participate in all child support hearings and shall comply with all provisions for the exchange and filing of all required financial documents. In the discretion of the judge or magistrate, and for good cause shown, an attorney may be excused from attending a child support hearing, provided that not less than 5 days prior to the scheduled hearing date, the attorney files (1) all financial affidavits and other documentation required by statute and these rules; and (2) a joint waiver of representation, signed by attorney and client and setting forth that the client has affirmatively requested to appear pro se at the child support hearing and understands the nature and scope of the hearing; and further provided that parental rights and responsibilities are the subject of a court order or an existing written stipulation on file with the court.

(e) Attorneys Not Admitted to Practice in Vermont. Any member in good standing of the bar of any other state or the District of Columbia who has filed a pro hac vice licensing statement form with the Court Administrator and who has paid the required fee, in accordance with Administrative Order No. 41, § 13, may, in the discretion of the court on motion by a member of the bar of this state who is actively associated with the attorney in a particular action, be admitted to practice in that action. The motion shall designate which attorney will serve as lead counsel. The court may at any time for good cause revoke such admission. An attorney so admitted to practice in a particular action shall at all times be associated in such action with a member of the bar of this state, upon whom all process, notices and other papers shall be served and who shall sign all papers filed with the court and whose attendance may be required by the court.

(f) Withdrawal.

(1) In General. Except as may be otherwise agreed or ordered pursuant to a limited appearance under subdivision (h):

(A) Actions under Rule 4. In any divorce, parentage, or other action under Rule 4, the appearance of an attorney shall be deemed to be withdrawn upon the entry of final judgment and the expiration of the time for appeal therefrom. Prior to the expiration of the time for appeal from a final judgment in such an action, an attorney who has entered an appearance may withdraw only with leave of court granted as provided in paragraph (2) or (3) of this subdivision.

(B) Other Actions. In any other action, an attorney who has entered an appearance may withdraw only with leave of court granted as provided in paragraph (2) or (3) of this subdivision.

(2) Leave to Withdraw without Hearing. The court shall grant leave to withdraw on motion without notice and hearing, (A) after entry of final judgment and the expiration of the time for appeal
therefrom in any action where withdrawal is not automatic under subparagraph (1)(A) of this subdivision; or (B), except in any action where a final hearing has been scheduled, when a represented party files a written pro se appearance pursuant to paragraph (4) of subdivision (a) or another attorney enters an appearance for such a party. The court may grant appointed counsel leave to withdraw on motion without notice and hearing only when the ground of withdrawal is a conflict of interest.

(3) Leave to Withdraw after Hearing. In any case where withdrawal is not automatic under subparagraph (1)(A) of this subdivision and leave to withdraw may not be granted under paragraph (2), the court shall grant leave to withdraw only on motion, after notice and hearing, for good cause shown, and on such terms as the court may order.

(4) Motion and Notice. A motion to withdraw under paragraph (3) of this subdivision shall include the party’s last known address. No motion to withdraw under paragraph (3) shall be considered by the court until the party has been given notice of the motion and the date and time of hearing thereon by the clerk. The only exceptions to this requirement shall be (A) when the attorney includes in the motion an affidavit that after diligent search the attorney cannot determine the present address of the party, or (B) when other counsel has entered an appearance for the party.

(g) Same: Notification of Party. When an attorney has been granted leave to withdraw an appearance pursuant to paragraph (3) of subdivision (f) or a limited appearance pursuant to paragraph (3) of subdivision (h), the clerk shall cause notice of the withdrawal to be served upon the party forthwith in the manner provided in Civil Rule 5. The notice shall inform the party that unless an attorney enters an appearance on behalf of the party within 15 days after service of the notice, the party will be deemed to have entered a pro se appearance. If no appearance by attorney is entered within 15 days, the clerk shall send the party written notification of the party’s pro se status and shall serve that notification upon all other parties pursuant to Civil Rule 5. The notification to the party shall be accompanied by the material required by paragraph (4) of subdivision (a) to be sent to a party making an initial appearance pro se.

(h) Limited Appearance.

(1) Except in a proceeding under Rule 2 or 3 of these rules, an attorney acting pursuant to an agreement with a client for limited representation that complies with the Vermont Rules of Professional Conduct may enter an appearance limited to one or more of the following purposes on behalf of a client who is pro se and who has entered, or will enter, an initial appearance in accordance with paragraph (4) of subdivision (a) or pursuant to subdivision (g):

(A) Filing a complaint or other pleading.

(B) Conducting one or more specific discovery procedures.
(C) Participating in a case management or status conference, an alternative dispute resolution or parent coordination proceeding, or a proceeding before a property or visitation master.

(D) Acting as counsel for a particular hearing or court event.

(E) Filing a notice of appeal from a decision of a family court magistrate or judge and taking any subsequent actions concerning the record, briefing, or argument in connection with an appeal.

(F) With leave of court, for a specific issue or a specific portion of a hearing.

(2) An attorney who wishes to enter a limited appearance shall do so by filing with the clerk and serving pursuant to Civil Rule 5 a written notice of limited appearance as soon as practicable prior to commencement of the appearance. The purpose and scope of the appearance shall be specifically described in the notice, which shall represent that the client is pro se and has entered, or will forthwith enter, an initial appearance. The attorney's name and a brief statement of the purpose of the limited appearance shall be entered upon the docket. The notice and all actions taken pursuant to it shall be subject to the obligations of Civil Rule 11.

(3) An attorney who has entered a limited appearance shall be granted leave to withdraw on motion without notice and hearing pursuant to paragraph (2) of subdivision (f) when the purpose for which the appearance was entered has been accomplished. An attorney who seeks to withdraw before that purpose has been accomplished may do so only on motion and notice, for good cause and on terms, as provided in paragraphs (3) and (4) of subdivision (f).

(4) Every paper required by Civil Rule 5 to be served upon a party's attorney that is to be served after entry of a limited appearance shall be served upon the party and upon the attorney entering that appearance unless the attorney has been granted leave to withdraw pursuant to paragraph (3) of this subdivision.

(i) Attorney License Number; eCabinet Registration Number. Any document that constitutes a first appearance of an attorney shall contain, in addition to the name of the appearing attorney, the eCabinet registration number assigned to that attorney on registering an e-mail address pursuant to Rule 3 of the Vermont Rules for Electronic Filing.


Note: Reporter's Notes-2010 Amendment
Rule 15 is amended to permit a lawyer acting pursuant to a limited representation agreement with a pro se client to enter a limited appearance in the Family Court in certain specific situations. The principal change to affect this purpose is the addition of Rule 15(h), which is adapted from V.R.C.P. 79.1(h). That rule was adopted effective April 14, 2006, for a two year period, extended to April 10, 2009, by order of March 13, 2008, and made permanent.
At the direction of the Supreme Court, the Advisory Committee on Rules of Civil Procedure inquired about use of V.R.C.P. 79.1(h) and, with the assistance of the Vermont Bar Association, conducted a survey of practice under it. While the survey reflected relatively little use of limited appearance, a significant number of lawyers who used the procedure found it helpful, and there have been no reports of problems in its use. The rule has proven effective in achieving its original purposes of providing assistance of lawyers to courts and litigants at critical stages in trials or other proceedings and encouraging lawyers to take on pro bono representation. See Reporter's Notes to 2006 amendment of V.R.C.P. 79.1. It may be anticipated that greater familiarity with the rule and growing interest at the bar in providing pro bono representation will lead to increased use of the unbundling procedure. Accordingly, the Civil Rules Committee recommended that V.R.C.P. 79.1(h) as adopted be made permanent. Given the great and increasing numbers of pro se litigants in Family Court, the use of the limited appearance procedure there is potentially of even greater importance.

For a general explanation of the rationale and operation of V.R.F.P. 15(h), see Reporter's Notes to 2006 amendment of V.R.C.P. 79.1. V.R.F.P. 15(h)(1) departs from V.R.C.P. 79.1(h)(1) in certain respects that reflect differences in Family Court practice. The unbundling procedure is not available in proceedings under V.R.F.P. 2 and 3, given the special requirements of CHINS and TPR proceedings. The client appearance language in the last clause of paragraph (1) is tailored to the requirements of V.R.F.P. 15(a)(4) and (g). The provision of V.R.C.P. 79.1(h)(1)(B) for filing or arguing specific motions is not carried forward because essentially duplicated by V.R.F.P. 15(h)(1)(D), discussed below. V.R.F.P. 15(h)(1)(C) makes clear that limited representation is available in specific pretrial proceedings in Family Court. The words "court event" have been added to V.R.F.P. 15(h)(1)(D), both to reflect more accurately the broader nature of Family Court proceedings and to make clear that the representation is limited in terms of particular matters, rather than by time. V.R.F.P. 15(h)(1)(E) makes clear that limited appellate representation includes appeals from both a magistrate and a judge and can include subsequent steps in the appeal. V.R.F.P. 15(h)(1)(F), like V.R.C.P. 79.1(h)(1)(G), is intended to affirm the inherent control of the judge over the course of a hearing. See Reporter's Notes to 2006 amendment of V.R.C.P. 79.1.

V.R.F.P. 15(h)(2)-(4) are identical to V.R.C.P. 79.1(h)(2)-(4), with minor variations to fit the framework of other provisions of Rule 15.

Amendments to V.R.F.P. 15(a)(1) and (2), (b), (c)(2) and (3), and (d)-(g) make clear the effect of a limited appearance under subdivision (h) on the matters covered by those provisions, and paragraph (c)(2) has been rewritten for clarity.
Rule 1. Scope of Rules.

Vermont Rules

RULES FOR ENVIRONMENTAL COURT PROCEEDINGS

As amended through July 16, 2014

Rule 1. Scope of Rules

These rules govern the procedure in the Environmental Division of the Superior Court in all matters within the original or appellate jurisdiction of the court and the procedure in appeals from the Environmental Division to the Supreme Court. The rules shall be construed and administered to ensure summary and expedited proceedings consistent with a full and fair determination in every matter coming before the court.


Vermont Rules

RULES FOR ENVIRONMENTAL COURT PROCEEDINGS

As amended through July 16, 2014

Rule 2. General Provisions

(a) Applicability. This rule applies in all proceedings under these rules, except as modified by provisions of the rules pertaining to particular proceedings.

(b) Coordination of Proceedings. On motion of a party, or on the court’s own motion, where the same violation or project involves multiple proceedings that have resulted or may result in separate hearings or appeals in the Environmental Court, or where different violations or projects involve significant common issues of law or fact, the court may advance, defer, coordinate, or combine proceedings and may make other orders that will promote expeditious and fair proceedings and avoid unnecessary costs or delay.

(c) Discovery. Unless the parties otherwise agree, the court in a pretrial order issued under
paragraph (d)(3) of this rule shall establish the type, sequence, and amount of discovery available under Rules 26-37 of the Vermont Rules of Civil Procedure, limiting the discovery permitted to that which is necessary for a full and fair determination of the proceeding.

(d) Pretrial Conference and Order.

(1) The court shall hold a pretrial conference as soon as possible after the filing of the last pretrial memorandum required in a review of an administrative order or the last statement of questions required in an appeal or the time for filing either has passed. The court may hold subsequent conferences, on its own motion or at the request of a party, as necessary to promote the expeditious and fair disposition of the proceeding. Any conference may be scheduled by the court to be held by telephone. All unrepresented parties and counsel for all represented parties must attend all conferences. Unless a party or counsel is excused by the court in advance of the scheduled date, failure to attend a conference may result in sanctions, including dismissal of the appeal or entry of default. The judge shall preside at the initial conference but may assign the case manager to conduct all, or specific portions, of any subsequent conference and report to the judge on any matters agreed upon and any matters in dispute. Motions may be scheduled to be heard at any conference held by the judge, and any conference or motion hearing may be recorded by audiotape or other electronic means with leave of the court.

(2) At the initial conference, the following matters shall be considered, if applicable, and appropriate schedules shall be established: (i) the status of any stay that has previously been granted; (ii) issues of intervention and party status; (iii) whether to advance, defer, coordinate, or combine proceedings pursuant to subdivision (b) of this rule; (iv) whether to allow clarification of the statement of questions; and (v) the potential for dismissal of all or some issues or for summary judgment or other disposition of any legal issue or issues before trial. At the initial or any subsequent conference, the following additional matters shall be considered, if applicable: (vi) whether to narrow the issues to be heard; (vii) the appropriate type, sequence and amount of discovery; (viii) the use of prefilled evidence and expert witnesses; (ix) whether a site visit is needed; (x) the use of alternative dispute resolution or other means of expediting the proceeding; and (xi) any other matter necessary to the expeditious and fair disposition of the proceeding.

(3) In every case, the court shall issue one or more written orders under Rules 16, 16.2, or 26(f) of the Vermont Rules of Civil Procedure, as appropriate. The order or orders shall, at a minimum: (i) dispose of any issues determined at the conference and set a date for the hearing and disposition of any other pending issues raised; (ii) state the type, sequence, and amount of discovery to be conducted and provide a plan and schedule for the completion of discovery; (iii) affirm a schedule for any alternative dispute resolution process ordered or agreed upon under V.R.C.P. 16.3; (iv) if prefilled evidence is to be used, contain appropriate orders concerning its use; (v) contain appropriate orders concerning the use of expert testimony at trial; (vi) contain appropriate orders governing a site visit, if any is to be conducted; and (vii) contain appropriate orders concerning trial scheduling.
(e) Evidence.

(1) Rules of Evidence. The Vermont Rules of Evidence shall be followed in all matters within the original jurisdiction of the court and in all appeals by trial de novo, except that evidence, not privileged, that is not admissible under the Rules of Evidence may be admitted in the discretion of the court if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(2) Prefiled Evidence.

(A) Except as provided in subparagraph (B) of this paragraph, prefiled evidence may be admitted as ordered by the court in a pretrial order issued pursuant to paragraph (d)(3) of this rule when a hearing will be expedited and the interests of the parties will not be prejudiced substantially.

(B) Prefiled testimony and related exhibits will be admitted only if the witness is present and available for cross-examination, unless the court and the parties otherwise agree or the witness is unavailable as defined in Rule 804(a) of the Vermont Rules of Evidence.

(3) Site Visits. One or more site visits may be conducted when appropriate to assist the court in rendering a decision.


Rule 3. Civil Actions.

Vermont Rules

RULES FOR ENVIRONMENTAL COURT PROCEEDINGS

As amended through July 16, 2014

Rule 3. Civil Actions

The following actions within the original jurisdiction of the Environmental Court shall be commenced and conducted as civil actions under the Vermont Rules of Civil Procedure and the Vermont Rules of Appellate Procedure, so far as those rules are applicable and except as they may be modified by subdivisions (b)-(e) of Rule 2:

(1) Revocation of state land use permits granted under 10 V.S.A., ch. 151, as provided in 4 V.S.A. § 1001(b).
(2) Enforcement of final administrative orders of the Secretary as provided in 10 V.S.A. § 8014(a).

(3) Certain civil ordinance violations relating to enforcement under 24 V.S.A., Chapter 117, as provided in 24 V.S.A. § 1974a(b).

(4) Enforcement of final municipal solid waste orders as provided in 24 V.S.A. § 2297a(j).

(5) Actions to recover penalties for violations of bylaws enacted under 24 V.S.A., Chapter 117, as provided in 24 V.S.A. § 4451.

(6) Actions by municipal administrative officers to prevent, restrain, correct, or abate violations of bylaws enacted under 24 V.S.A., Chapter 117, as provided in 24 V.S.A. § 4452.

(7) Actions by the Attorney General to challenge the validity of a bylaw or its administration on the grounds that it violates 24 V.S.A. § 4412(1) relating to equal treatment of housing and adequate provision of affordable housing, as provided in 24 V.S.A. § 4453.

(8) Actions by municipalities or interested persons to enforce decisions of appropriate municipal panels under 24 V.S.A., Chapter 117, by mandamus, injunction, process of contempt, or otherwise, as provided in 24 V.S.A. § 4470(b).

(9) Actions by municipalities to revoke a municipal land use permit issued under 24 V.S.A. chapter 117, as provided in 24 V.S.A. § 4455.

(10) Any other original action concerning a subject matter within the jurisdiction of the Environmental Court in which the relief sought is not available under other provisions of these rules or by action pursuant to paragraphs (1)-(9) of this rule.


Vermont Rules

RULES FOR ENVIRONMENTAL COURT PROCEEDINGS

As amended through July 16, 2014

Rule 4. Review of Environmental Enforcement Orders
(a) Applicability of Rules.

(1) This rule applies to review of environmental enforcement orders in the Environmental Court under 10 V.S.A. §§ 8001-8013 and 24 V.S.A. § 2297b and to appeals from the Environmental Court to the Supreme Court in those proceedings.

(2) The Vermont Rules of Civil Procedure, as modified by Rules 2(b)-(e), and the Vermont Rules of Appellate Procedure apply to all proceedings under this rule except as otherwise provided in paragraph (3) of this subdivision and except where another procedure is expressly provided by subdivisions (b)-(e) of this rule.

(3) The following provisions of the Vermont Rules of Civil Procedure shall not apply to proceedings under this rule: Rules 3 (Commencement of Action), 4 (Process), 4.1 (Attachment), 4.2 (Trustee Process), 7(a) and (c) (Pleadings Allowed), 8(a)-(f) (General Rules of Pleading), 9 (Pleading Special Matters), 10 (Form of Pleadings), 12 (Defenses and Objections), 13 (Counterclaim and Cross-Claim), 14 (Third-Party Practice), 18 (Joinder of Claims and Remedies), 22 (Interpleader), 23 (Class Actions), 23.1 (Derivative Actions), 24(a)(2) (Nonstatutory Intervention as of Right), 24(b)(2) (Nonstatutory Intervention by Permission), 38-39 (Jury Trials), 40(b) (Progress Calendar), 47--49 (Jurors and Juries), 51 (Argument of Counsel; Instructions to Jury), 53 (Masters), 56 (Summary Judgment), 57 (Declaratory Judgments), 64 (Replevin), 68 (Offer of Judgment), 72 (Appeals from Probate Courts), 74 (Appeals from Decisions of Governmental Agencies), 75 (Review of Governmental Action), the last sentence of Rule 77(d) (Lack of Notice of Entry), 80.1 (Foreclosure of Mortgages and Judgment Liens), 80.2 (Naturalization of Aliens), 80.4 (Habeas Corpus), 80.5 (District Court Procedures for Civil License Suspensions and Penalties for DWI), 80.6 (Judicial Bureau Procedures), 80.7 (Procedures for Immobilization or Forfeiture Hearings Pursuant to 23 V.S.A. § 1213c), and 80.8 (Transfer from District to Superior Court).

(b) Assurances of Discontinuance. An assurance of discontinuance filed pursuant to 10 V.S.A. § 8007(c) shall be deemed a pleading by agreement pursuant to Rule 8(g) of the Vermont Rules of Civil Procedure. Assurances shall be simultaneously filed with the court and the Attorney General. The court may sign the assurance with or without a hearing. If the assurance is signed by the court, the assurance shall become a judicial order and the court shall notify the Secretary, the respondent and the Attorney General. Notwithstanding Rule 60 of the Vermont Rules of Civil Procedure, within ten days of the date that an assurance is signed by the court, the Attorney General may move the court to vacate the order on the grounds that the assurance is insufficient to carry out the purposes of 10 V.S.A., Chapter 201. After hearing, upon finding that the assurance is insufficient to carry out the purposes of Chapter 201, the court shall vacate the order.

(c) Emergency Orders.

(1) Procedure for Issuance. Upon presentation of an emergency administrative order to the court
pursuant to 10 V.S.A. § 8009(b), if the court finds that the Secretary has made a sufficient showing that (A) a violation presents an immediate threat of substantial harm to the environment or an immediate threat to the public health; or (B) an activity will or is likely to result in a violation which presents an immediate threat of substantial harm to the environment or an immediate threat to the public health; or (C) an activity requiring a permit has been commenced and is continuing without a permit, an emergency judicial order may be issued pursuant to 10 V.S.A. §§ 8008 and 8009. Rule 65(a) of the Vermont Rules of Civil Procedure shall provide the procedure governing issuance of these orders, except that: (i) an affidavit but no complaint is required; (ii) the affidavit must establish and the court must find that all reasonable efforts have been made to notify the respondent of the presentation of the order to the court, and, if so, the court may allow the presentation to be made ex parte; (iii) any order, including an order issued ex parte, may, if the court so orders, continue in effect until further order of the court; and (iv) the order need only state the grounds upon which it has been granted, that the respondent has the right to a prompt hearing on the merits of the order, that the hearing must be requested by motion filed within five days of receipt of the order, that the order will remain in effect until further order of the court or a date provided, and the address or addresses where the motion must be filed. At any hearing on an application for an emergency order, the court may permit either party to present evidence. Any evidence so received that would be admissible upon the hearing on the merits becomes part of the record and need not be repeated upon the hearing on the merits.

(2) **Effect; Service.** An emergency judicial order shall become effective on actual notice to the respondent. The Secretary shall cause the order to be served upon the respondent.

(3) **Hearings on Modification or Dissolution; Stay.** If a motion requesting a hearing on the merits of the order is filed with the court and the Secretary by the respondent within five days of the receipt of the order, the court shall schedule a prompt hearing, which shall take precedence over all other hearings and shall be held within five days of filing of the motion. The court may affirm, modify or dissolve the order. The filing of a motion does not operate as a stay of the order, but the court may, upon motion, stay or modify the order upon such terms and conditions as it deems appropriate. Subdivision (d) of this rule shall govern the hearing and any resulting appeal, except that paragraph (2) of that subdivision is inapplicable and a pretrial conference will be held only in the discretion of the court. The court's ruling on a motion filed under this paragraph shall be deemed a final judgment.

(d) **Procedure for Review of Administrative Orders.**

(1) **Generally.** This subdivision governs request for review of any order issued by the Secretary pursuant to 10 V.S.A. § 8008, except as otherwise provided for emergency orders issued pursuant to 10 V.S.A. § 8009 and subdivision (c) of this rule.

(2) **Notice of Request; Stay.** Review of an order of the Secretary shall be taken by filing a notice of the request with the clerk of the Environmental Court and with the Secretary within fifteen days of
receipt of the order or decision. The notice operates as a stay of an order issued, and payment of any penalty imposed, under 10 V.S.A. § 8008 pending the hearing. The court also may hear and determine a motion for an emergency order under subdivision (c) of this rule with regard to the alleged violation that is the subject of the proceeding under this subdivision.

(3) **Intervention.** Upon timely motion under Rule 24 of the Vermont Rules of Civil Procedure, the court may grant party status to an aggrieved person as provided in 10 V.S.A. § 8012(d).

(4) **Scheduling; Discovery; Pretrial Proceedings.**

(A) As soon as the Secretary receives proof that an administrative order has been served upon a respondent, the Secretary shall file the order and proof of service with the court.

(B) (i) Within 7 days of the filing of a notice of request for hearing, the Secretary shall file a pretrial memorandum which shall include a list of witnesses and a summary of any evidence which the Secretary plans to present in support of the administrative order.

(ii) Within 10 days of the filing of the Secretary's memorandum, the respondent shall file a pretrial memorandum which shall state respondent's agreement or disagreement with each element of the "statement of facts" in the administrative order; shall include a list of witnesses and a summary of any evidence which respondent plans to present to contest such facts; shall state with particularity whether respondent accepts or contests each element of the "order" section of the administrative order; if a penalty was imposed by the order, shall include a summary of any evidence respondent plans to present regarding mitigating or other factors affecting the penalty calculation; and shall include a preliminary statement of the legal and jurisdictional issues which respondent plans to raise in the proceeding.

(C) The court shall promptly thereafter convene a pretrial conference, and shall thereupon issue appropriate orders, including orders for the disposition of legal issues prior to the hearing, orders for discovery necessary to a full and fair determination of the proceeding, and other appropriate orders consistent with 10 V.S.A. § 8012, as provided in Rule 2(d).

(5) **Trial De Novo; Judgment.** Review shall be de novo, but, if a violation is found, the court's review of the remedy imposed shall be subject to 10 V.S.A. § 8012(b). The final judgment in a ruling under this subdivision or paragraph (3) of subdivision (c) may, as appropriate under each specific subsection of 10 V.S.A. § 8012(b), affirm, reverse, modify, or dissolve the decision of the Secretary or may vacate and remand the case for further proceedings consistent with the order of the court. In addition to the requirements of Rule 52 of the Vermont Rules of Civil Procedure, the judgment shall contain the statements required by 10 V.S.A. § 8012(c)(4) and (5).

(6) **Appeal to Supreme Court; Stay Pending Appeal.**
(A) A final judgment under this rule shall be appealable as of right to the Supreme Court pursuant to 10 V.S.A. § 8013(c). The notice of appeal shall be filed within ten days of the date of receipt of the judgment appealed from.

(B) Notwithstanding Rule 62 of the Vermont Rules of Civil Procedure and Rule 8 of the Vermont Rules of Appellate Procedure, an appeal to the Supreme Court by the Secretary shall stay the dissolution of an emergency judicial order. An appeal by the respondent or the Attorney General shall not stay the operation of an emergency or other order but shall stay payment of a penalty. A respondent may seek a stay in the Supreme Court pursuant to Rule 8 of the Vermont Rules of Appellate Procedure.

(e) Procedure for Review of Final Municipal Solid Waste Orders.

(1) Generally. This subdivision shall govern requests for review under 24 V.S.A. § 2297b of a final solid waste order issued by the legislative body of a municipality pursuant to 24 V.S.A. § 2297a.

(2) Notice of Request; Stay. Review of a municipal solid waste order shall be taken by filing a notice of the request with the clerk of the Environmental Court and with the municipal clerk within ten days of receipt of the final order. The notice operates as a stay of any order issued, and payment of any penalty imposed, pending the hearing.

(3) Hearing. Review shall be de novo and shall be governed by paragraph (d)(5) of this rule, substituting "legislative body" for "Secretary."

(4) Judgment. The court may reverse, affirm, modify, or vacate the order in accordance with 24 V.S.A. § 2297b(c), (d). In making its determination, the court shall consider the factors set forth in 24 V.S.A. § 2297a(a).

(5) Appeals; Stay on Appeal. Appeals from Environmental Court decisions under this rule are governed by the Vermont Rules of Appellate Procedure. On an appeal of a final judgment under this rule, Rule 62 of the Vermont Rules of Civil Procedure and Rule 8 of the Vermont Rules of Appellate Procedure shall govern stays, and the decision of the Environmental Court on all matters other than penalties shall be deemed to be judgments in an action for an injunction for purposes of those rules.


Rule 5. Appeals [Effective until February 3, 2014].

Vermont Rules
RULES FOR ENVIRONMENTAL COURT PROCEEDINGS

As amended through July 16, 2014

Rule 5. Appeals [Effective until February 3, 2014]

(a) Applicability of Rules.

(1) This rule governs appeals to the Environmental Court from an act or decision of an appropriate municipal panel pursuant to 24 V.S.A. §§ 4471, 4472; from an act or decision of the secretary of the agency of natural resources, or a commissioner or department of the agency, under the provisions of law listed in 10 V.S.A. § 8503(a); from a district commission, or from a district coordinator jurisdictional opinion, under 10 V.S.A., ch. 151; and from decisions of the secretary of the agency of agriculture, food and markets pursuant to 6 V.S.A. §§ 4855, 4861.

(2) Except as modified by this rule and by subdivisions (b)-(e) of Rule 2, the Vermont Rules of Civil and Appellate Procedure, so far as applicable, govern all proceedings under this rule.

(b) Notice of Appeal.

(1) Filing the Notice of Appeal. An appeal under this rule shall be taken by filing with the clerk of the Environmental Court by certified mail or other means a notice of appeal containing the items required in paragraph (3) of this subdivision within 30 days of the date of the act, decision, or jurisdictional opinion appealed from, unless the court extends the time as provided in Rule 4 of the Vermont Rules of Appellate Procedure. The appellant shall pay to the clerk with the notice of appeal any required entry fee. If a notice of appeal is mistakenly filed with the tribunal appealed from, or the Natural Resources Board, or either of its panels or its predecessor boards, the appropriate officer of the tribunal, board, or panel shall note thereon the date on which it was received and shall promptly transmit it to the clerk of the Environmental Court, and it shall be deemed filed with the Environmental Court on the date so noted. Failure of an appellant to take any step other than the timely filing of the notice of appeal does not affect the validity of the appeal but is ground only for such action as the court deems appropriate, which may include dismissal of the appeal.

(2) Cross- or Additional Appeals. If a timely notice of appeal is filed, any other person entitled to appeal may file a notice of appeal within 14 days of the date on which the statement of questions is required to be filed pursuant to Rule 5(f), or within the time otherwise prescribed by this rule, whichever period last expires, unless the court extends the time as provided in Rule 4 of the Vermont Rules of Appellate Procedure.

(3) Contents of Notice of Appeal. The notice of appeal must specify the party or parties taking the
appeal and the statutory provisions under which each party claims party status; must designate
the act, order, or decision appealed from; must name the court to which the appeal is taken; and
must be signed by the appellant or the appellant's attorney. In addition, the notice of appeal must
(A) advise all interested persons that they must enter an appearance in writing with the court
within 20 days of receiving the notice, or in such other time as may be provided in subdivision (c)
of this rule, if they wish to participate in the appeal and (B) give the address or location and a
description of the property or development with which the appeal is concerned and the name of
the applicant for any permit involved in the appeal. An appeal will not be dismissed for informality
of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is
otherwise clear from the notice.

(4) Service.

(A) Appeal from an Appropriate Municipal Panel. Upon the filing of a notice of appeal from an act
or decision of an appropriate municipal panel, the appellant shall at the same time mail a copy of
the notice of appeal to the clerk or other appropriate officer of the panel. Upon receipt of the copy
of the notice of appeal, the clerk or other officer shall, within five working days, provide to the
appellant a list of interested persons, with instructions to serve a copy of the notice upon each of
them by certified mail. A copy of the notice shall thereupon be served by the appellant by certified
mail upon each interested person.

(B) Appeal from the Secretary of the Agency of Natural Resources, a District Commission, or a
District Coordinator. Upon the filing of a notice of appeal from an act or decision of the secretary of
the agency of natural resources, a district commission, or a district coordinator, the appellant shall
serve a copy of the notice of appeal in accordance with Rule 5 of the Vermont Rules of Civil
Procedure upon the secretary, district commission, or district coordinator as appropriate and upon
any party by right as defined in 10 V.S.A. § 8502(5), the Natural Resources Board, and every
other person to whom notice of the filing of an appeal is required to be given by 10 V.S.A. §
8504(c) or (e), as appropriate. In addition, if the appeal is from an act or decision of the secretary
or a district commission, the appellant shall publish a copy of the notice of appeal not more than
10 days after serving the notice as required under this subparagraph, at the appellant's expense,
in a newspaper of general circulation in the area of the project which is the subject of the act or
decision appealed from.

(C) Appeal from the Secretary of Agriculture. If the appeal is from a decision of the secretary of the
agency of agriculture, food and markets under 6 V.S.A. § 4855, the appellant shall serve a copy of
the notice of appeal upon the secretary. If the appeal is from a decision or ruling of the secretary
under 6 V.S.A. § 4861, the appellant shall serve a copy of the notice upon the secretary, the
applicant if other than the appellant, and any person entitled under rules adopted by the secretary
to receive individual notice of an animal waste permit hearing pursuant to 6 V.S.A. § 4858.

(c) Appearance. An appellant enters an appearance by filing a notice of appeal as provided in
subdivision (b) of this rule. Any other person may enter an appearance within 20 days after the date on which notice of filing of the last notice of appeal to be filed was served, or, if necessary, published pursuant to subparagraph (b)(4)(B) of this rule, by filing a written notice of appearance with the clerk and by serving the notice of appearance in accordance with Rule 5 of the Vermont Rules of Civil Procedure; provided that any person enumerated in 10 V.S.A. § 8504(n)(1)-(3) may file and serve an appearance in a timely fashion. Any other person who has not previously entered an appearance as provided in this paragraph may enter an appearance by filing a timely motion to intervene. Attorneys shall comply with Civil Rule 79.1(i).

(d) Claims and Challenges of Party Status.

(1) Appeals of Interlocutory District Commission Party Status Decisions. Any party in a proceeding before a district commission, or any person denied party status in such a proceeding, may move in the Environmental Court for an appeal of an interlocutory decision of the district commission granting or denying party status pursuant to 10 V.S.A. § 6085(c). The motion, together with a notice of appeal, must be filed and served as provided in subdivision (b) of this rule within ten days after the decision of the district commission appealed from, except that the motion and notice need not be served by publication. The court may grant the motion and hear the appeal if it determines that review will materially advance the application process before the district commission. The court shall expedite hearing and determination of the motion and appeal. The provisions of Rule 2 apply to appeals under this paragraph only as ordered by the court.

(2) Claims and Challenges of Party Status in an Appeal from a Final Decision. An appellant who claims party status as a person aggrieved pursuant to 6 V.S.A. § 4855 or 10 V.S.A. § 8504(a) and is not denied that status by 10 V.S.A. § 8504(d)(1), or an appellant who claims party status as an interested person pursuant to 10 V.S.A. § 8504(b)(1), will be automatically accorded that status when the notice of appeal is filed unless the court otherwise determines on motion to dismiss a party. An appellant who claims party status under 10 V.S.A. § 8504(b)(2), (d)(2), or (e)(2) and who has not sought interlocutory relief pursuant to paragraph (1) of this subdivision must assert that claim by motion filed not later than the deadline for filing a statement of questions on appeal. Any other person who appears as provided in subdivision (c) of this rule will be accorded party status unless the court otherwise determines on its own motion, on motion to dismiss a party, or on a motion to intervene.

(e) Stay. Unless the act or decision appealed from is automatically stayed pursuant to 10 V.S.A. § 8504(f)(1) by the filing of the appeal or a stay has been granted by the district commission pursuant to 10 V.S.A. § 6086(f), the court, after the notice of appeal has been filed may, on its own motion, or on motion of a party, stay the act or decision and make such other orders as are necessary to preserve the rights of the parties upon such terms and conditions as are just. When the appeal is from the issuance of a permit pursuant to 24 V.S.A. § 4449, unless the decision appealed from is automatically stayed pursuant to 10 V.S.A. § 8504(f)(1)(B), the permit shall not take effect until the earlier of 15 days from the date of filing of the notice of appeal or the date of a
ruling by the court under this subdivision on whether to issue a stay.

(f) Statement of Questions. Within 20 days after the filing of the notice of appeal, the appellant shall file with the clerk of the Environmental Court a statement of the questions that the appellant desires to have determined. The statement shall be served in accordance with Rule 5 of the Vermont Rules of Civil Procedure. No response to the statement of questions shall be filed. The appellant may not raise any question on the appeal not presented in the statement as filed, unless otherwise ordered by the court in a pretrial order entered pursuant to subdivision (d) of Rule 2. The statement is subject to a motion to clarify or dismiss some or all of the questions.

(g) Trial De Novo; Pretrial Order. All appeals under this rule shall be by trial de novo, following a pretrial conference and order issued pursuant to subdivision (d) of Rule 2, except as provided in subdivision (h) of this rule. In an appeal by trial de novo, all questions of law or fact as to which review is available shall be tried to the court, which shall apply the substantive standards that were applicable before the tribunal appealed from.

(h) Appeals to the Environmental Court on the Record.

(1) From an Appropriate Municipal Panel.

(A) An appeal from an appropriate municipal panel from which appeals may be on the record pursuant to 24 V.S.A. §§ 4471 and 4472 shall be governed by Rules 10-12.1 of the Vermont Rules of Appellate Procedure so far as applicable and except as modified by this rule. The record on appeal shall consist of the original papers filed with the municipal panel; any writings or exhibits considered by the panel in reaching the decision appealed from; the electronic recording of the proceedings certified by the presiding officer of the municipal panel as the full, true and correct record of the proceedings; and the transcript of the proceedings if any. Within 30 days after the filing of the notice of appeal, the clerk or other appropriate officer of the municipal panel shall transmit the papers and exhibits filed to the clerk of the Environmental Court in the manner provided in Rule 11(b) of the Rules of Appellate Procedure. Except as hereinafter provided, the electronic recording will serve without transcript as the record of the proceedings in all matters in which the total elapsed time for all recorded proceedings does not exceed 12 hours. In such a case, the operator of the equipment shall send a copy of the electronic recording to the Environmental Court and shall bill the appellant for the copy.

(B) In any such matter in which a party has ordered a transcript and has agreed to pay the cost of copies of the transcript for opposing parties and, unless otherwise ordered by the court, in any matter in which the total elapsed time for all recorded proceedings exceeds 12 hours, the transcript, ordered and prepared as provided in subparagraph (C) of this paragraph, will serve as the record of proceedings.

(C) When a transcript is to be ordered, the party ordering it, within ten days after filing the notice of
appeal, shall send to the municipal panel an order for a transcript of all parts of the proceedings that are relevant to the issues that the appellant intends to raise in the statement of questions. A copy of the order shall be served on the clerk of the Environmental Court and all persons upon whom copies the notice of appeal have been served pursuant to subdivision (b) of this rule. It shall thereupon be the responsibility of the municipal panel to cause a transcript to be made by an individual on a list appointed by the Court Administrator pursuant to paragraph (8) of Administrative Order No. 19 to transcribe electronic recordings for use in court proceedings. The party ordering the transcript shall pay to the municipal panel at the time of ordering the deposit amount required under Administrative Order No. 28.

(2) From the Commissioner of Forests, Parks, and Recreation. An appeal from a decision of the commissioner of forests, parks, and recreation under 10 V.S.A. § 2625(f) shall be on the record of the proceedings before the commissioner. Within 30 days after the filing of the notice of appeal, the commissioner shall transmit the papers and exhibits filed to the clerk of the Environmental Court in the manner provided in Rule 11(b) of the Rules of Appellate Procedure. If those proceedings have been electronically recorded, the provisions of paragraph (1) of this subdivision concerning electronic recording apply.

(i) Remand for Reconsideration. At the request of the tribunal appealed from, the court, at any time prior to judgment, may remand the case to that tribunal for its reconsideration.

(j) Judgment. The order of the court may affirm, reverse, or modify the decision of the tribunal appealed from, may remand the case for further proceedings consistent with the order of the court, and may expressly set forth conditions and restrictions with which the parties must comply.

(k) Appeals to the Supreme Court.

(1) Rules Applicable. Except as modified by this subdivision, the Vermont Rules of Appellate Procedure, so far as applicable, shall govern all proceedings under this subdivision.

(2) Filing and Service. An appeal from a decision in a proceeding in the Environmental Court under this rule shall be taken by filing with the clerk of the Environmental Court a notice of appeal in the form provided in paragraph (3) of this subdivision within 30 days of the date of the decision appealed from, unless the Environmental Court extends the time as provided in Rule 4 of the Rules of Appellate Procedure. The appellant shall pay to the clerk of the Environmental Court any required entry fee with the notice of appeal. The appellant shall serve a copy of the notice upon the clerk of the Supreme Court and upon counsel of record of each person that appeared in the Environmental Court and held party status at the time when the decision appealed from was rendered.

(3) Contents of Notice of Appeal. The notice of appeal must specify the party or parties taking the appeal; must designate the judgment, order, or part thereof appealed from; must name the court to
which the appeal is taken; and must be signed by the appellant or the appellant's attorney. In addition, the notice of appeal must give the address and a description of the property or development with which the appeal is concerned and the name of the applicant for any permit involved in the appeal and must set forth facts showing that the appellant is entitled to appeal pursuant to 10 V.S.A. § 8505(a)(1) or (2) or shall be accompanied by a motion requesting the Supreme Court to allow the appeal on the grounds specified in 10 V.S.A. § 8505(a)(3).

(4) Issues on Appeal. An objection that was not raised before the Environmental Court may not be considered by the Supreme Court, unless the failure or neglect to raise that objection is excused by the Supreme Court because of extraordinary circumstances.

(5) Interlocutory Decisions. An appeal from a decision of the Environmental Court granting or denying party status as provided in subdivision (d) of this rule or issuing a stay pursuant to subdivision (e) of this rule may be taken before final judgment as provided in Rule 5 of the Vermont Rules of Appellate Procedure.


Note:
Reporter's Notes-2009 Amendment

Rule 5(b)(3) is amended to provide that the notice of appeal must advise all interested persons of the need to enter an appearance in accordance with Rule 5(c) in order to participate in the appeal. Rule 5(c) provides that persons other than intervenors under 10 V.S.A. § 8504(n) may enter an appearance by filing and serving written notice of it within 20 days after service of the last notice of appeal to be filed. Under subdivision (c), prior parties retaining party status, parties by right, and the Natural Resources Board or its panels who intervene "may file and serve an appearance in a timely fashion." Other intervenors "may enter an appearance by filing a timely motion to intervene." See Reporter's Notes to V.R.E.C.P. 5(c). Under Rule 5(b)(4)(A)-(C), the appellant is required to serve a copy of the notice of appeal on interested persons and other required persons or parties. To supplement the warning of the need for entry of appearance now contained in the notice of appeal, appellants should use Environmental Court Form 900 as a cover letter when mailing the notice. See http://www.vermontjudiciary.org/eforms/Form%20900.pdf.

Rule 5(d)(2) is amended to correct a drafting error in the original rule.

______________________________________________________________

Rule 5. Appeals [Effective February 3, 2014].

Vermont Rules

RULES FOR ENVIRONMENTAL COURT PROCEEDINGS
Rule 5. Appeals [Effective February 3, 2014]

(a) Applicability of Rules.

(1) This rule governs appeals to the Environmental Court from an act or decision of an appropriate municipal panel pursuant to 24 V.S.A. §§ 4471, 4472; from an act or decision of the secretary of the agency of natural resources, or a commissioner or department of the agency, under the provisions of law listed in 10 V.S.A. § 8503(a); from a district commission, or from a district coordinator jurisdictional opinion, under 10 V.S.A., ch. 151; and from decisions of the secretary of the agency of agriculture, food and markets pursuant to 6 V.S.A. §§ 4855, 4861.

(2) Except as modified by this rule and by subdivisions (b)-(e) of Rule 2, the Vermont Rules of Civil and Appellate Procedure, so far as applicable, govern all proceedings under this rule.

(b) Notice of Appeal.

(1) Filing the Notice of Appeal. An appeal under this rule shall be taken by filing with the clerk of the Environmental Court by certified mail or other means a notice of appeal containing the items required in paragraph (3) of this subdivision within 30 days of the date of the act, decision, or jurisdictional opinion appealed from, unless the court extends the time as provided in Rule 4 of the Vermont Rules of Appellate Procedure. The appellant shall pay to the clerk with the notice of appeal any required entry fee. If a notice of appeal is mistakenly filed with the tribunal appealed from, or the Natural Resources Board, or either of its panels or its predecessor boards, the appropriate officer of the tribunal, board, or panel shall note thereon the date on which it was received and shall promptly transmit it to the clerk of the Environmental Court, and it shall be deemed filed with the Environmental Court on the date so noted. Failure of an appellant to take any step other than the timely filing of the notice of appeal does not affect the validity of the appeal but is ground only for such action as the court deems appropriate, which may include dismissal of the appeal.

(2) Cross- or Additional Appeals. If a timely notice of appeal is filed, any other person entitled to appeal may file a notice of appeal within 14 days of the date on which the statement of questions is required to be filed pursuant to Rule 5(f), or within the time otherwise prescribed by this rule, whichever period last expires, unless the court extends the time as provided in Rule 4 of the Vermont Rules of Appellate Procedure.

(3) Contents of Notice of Appeal. The notice of appeal must specify the party or parties taking the appeal and the statutory provisions under which each party claims party status; must designate the act, order, or decision appealed from; must name the court to which the appeal is taken; and
must be signed by the appellant or the appellant's attorney. In addition, the notice of appeal must (A) advise all interested persons that they must enter an appearance in writing with the court within 20 days of receiving the notice, or in such other time as may be provided in subdivision (c) of this rule, if they wish to participate in the appeal and (B) give the address or location and a description of the property or development with which the appeal is concerned and the name of the applicant for any permit involved in the appeal. An appeal will not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.

(4) Service.

(A) Appeal from an Appropriate Municipal Panel. Upon the filing of a notice of appeal from an act or decision of an appropriate municipal panel, the appellant shall at the same time mail a copy of the notice of appeal to the clerk or other appropriate officer of the panel. Upon receipt of the copy of the notice of appeal, the clerk or other officer shall, within five working days, provide to the appellant a list of interested persons, with instructions to serve a copy of the notice upon each of them by certified mail. A copy of the notice shall thereupon be served by the appellant by certified mail upon each interested person.

(B) Appeal from the Secretary of the Agency of Natural Resources, a District Commission, or a District Coordinator. Upon the filing of a notice of appeal from an act or decision of the secretary of the agency of natural resources, a district commission, or a district coordinator, the appellant shall serve a copy of the notice of appeal in accordance with Rule 5 of the Vermont Rules of Civil Procedure upon the secretary, district commission, or district coordinator as appropriate and upon any party by right as defined in 10 V.S.A. § 8502(5), the Natural Resources Board, and every other person to whom notice of the filing of an appeal is required to be given by 10 V.S.A. § 8504(c) or (e), as appropriate. In addition, if the appeal is from an act or decision of the secretary or a district commission, the appellant shall publish a copy of the notice of appeal not more than 10 days after serving the notice as required under this subparagraph, at the appellant's expense, in a newspaper of general circulation in the area of the project which is the subject of the act or decision appealed from.

(C) Appeal from the Secretary of Agriculture. If the appeal is from a decision of the secretary of the agency of agriculture, food and markets under 6 V.S.A. § 4855, the appellant shall serve a copy of the notice of appeal upon the secretary. If the appeal is from a decision or ruling of the secretary under 6 V.S.A. § 4861, the appellant shall serve a copy of the notice upon the secretary, the applicant if other than the appellant, and any person entitled under rules adopted by the secretary to receive individual notice of an animal waste permit hearing pursuant to 6 V.S.A. § 4858.

(c) Appearance. An appellant enters an appearance by filing a notice of appeal as provided in subdivision (b) of this rule. Any other person may enter an appearance within 20 days after the date on which notice of filing of the last notice of appeal to be filed was served, or, if necessary,
published pursuant to subparagraph (b)(4)(B) of this rule, by filing a written notice of appearance with the clerk and by serving the notice of appearance in accordance with Rule 5 of the Vermont Rules of Civil Procedure; provided that any person enumerated in 10 V.S.A. § 8504(n)(1)-(3) may file and serve an appearance in a timely fashion. Any other person who has not previously entered an appearance as provided in this paragraph may enter an appearance by filing a timely motion to intervene. Attorneys shall comply with Civil Rule 79.1(i).

(d) Claims and Challenges of Party Status.

(1) Appeals of Interlocutory District Commission Party Status Decisions. Any party in a proceeding before a district commission, or any person denied party status in such a proceeding, may move in the Environmental Court for an appeal of an interlocutory decision of the district commission granting or denying party status pursuant to 10 V.S.A. § 6085(c). The motion, together with a notice of appeal, must be filed and served as provided in subdivision (b) of this rule within ten days after the decision of the district commission appealed from, except that the motion and notice need not be served by publication. The court may grant the motion and hear the appeal if it determines that review will materially advance the application process before the district commission. The court shall expedite hearing and determination of the motion and appeal. The provisions of Rule 2 apply to appeals under this paragraph only as ordered by the court.

(2) Claims and Challenges of Party Status in an Appeal from a Final Decision. An appellant who claims party status as a person aggrieved pursuant to 6 V.S.A. § 4855 or 10 V.S.A. § 8504(a) and is not denied that status by 10 V.S.A. § 8504(d)(1), or an appellant who claims party status as an interested person pursuant to 10 V.S.A. § 8504(b)(1), will be automatically accorded that status when the notice of appeal is filed unless the court otherwise determines on motion to dismiss a party. An appellant who claims party status under 10 V.S.A. § 8504(b)(2), (d)(2), or (e)(2) and who has not sought interlocutory relief pursuant to paragraph (1) of this subdivision must assert that claim by motion filed not later than the deadline for filing a statement of questions on appeal. Any other person who appears as provided in subdivision (c) of this rule will be accorded party status unless the court otherwise determines on its own motion, on motion to dismiss a party, or on a motion to intervene.

(e) Stay. Unless the act or decision appealed from is automatically stayed pursuant to 10 V.S.A. § 8504(f)(1) by the filing of the appeal or a stay has been granted by the district commission pursuant to 10 V.S.A. § 6086(f), the court, after the notice of appeal has been filed may, on its own motion, or on motion of a party, stay the act or decision and make such other orders as are necessary to preserve the rights of the parties upon such terms and conditions as are just. When the appeal is from the issuance of a permit pursuant to 24 V.S.A. § 4449, unless the decision appealed from is automatically stayed pursuant to 10 V.S.A. § 8504(f)(1)(B), the permit shall not take effect until the earlier of 15 days from the date of filing of the notice of appeal or the date of a ruling by the court under this subdivision on whether to issue a stay.
(f) Statement of Questions. Within 20 days after the filing of the notice of appeal, the appellant shall file with the clerk of the Environmental Court a statement of the questions that the appellant desires to have determined. The statement shall be served in accordance with Rule 5 of the Vermont Rules of Civil Procedure. No response to the statement of questions shall be filed. The appellant may not raise any question on the appeal not presented in the statement as filed, unless otherwise ordered by the court in a pretrial order entered pursuant to subdivision (d) of Rule 2. The statement is subject to a motion to clarify or dismiss some or all of the questions.

(g) Trial De Novo; Pretrial Order. All appeals under this rule shall be by trial de novo, following a pretrial conference and order issued pursuant to subdivision (d) of Rule 2, except as provided in subdivision (h) of this rule. In an appeal by trial de novo, all questions of law or fact as to which review is available shall be tried to the court, which shall apply the substantive standards that were applicable before the tribunal appealed from.

(h) Appeals to the Environmental Court on the Record.

(1) From an Appropriate Municipal Panel.

(A) An appeal from an appropriate municipal panel from which appeals may be on the record pursuant to 24 V.S.A. §§ 4471 and 4472 shall be governed by the Vermont Rules of Appellate Procedure so far as applicable and except as modified by this rule. The record on appeal shall consist of the original papers filed with the municipal panel; any writings or exhibits considered by the panel in reaching the decision appealed from; and a written transcript of of the proceedings whether recorded electronically or stenographically, certified by the presiding officer of the municipal panel as the full, true and correct record of the proceedings. Within 30 days after the filing of the notice of appeal, the clerk or other appropriate officer of the municipal panel shall transmit the papers and exhibits filed to the clerk of the Environmental Court in the manner provided in Rule 11(b) of the Rules of Appellate Procedure.

(B) Within ten days after filing the notice of appeal, appellant shall send to the municipal panel an order for a transcript of all proceedings, unless all parties involved in the appeal stipulate to a transcript of less than all proceedings. A copy of the order shall be served on the clerk of the Environmental Court and all persons upon whom copies the notice of appeal have been served pursuant to subdivision (b) of this rule. It shall thereupon be the responsibility of the municipal panel to cause a transcript to be made by a Court-approved transcription service pursuant to V.R.A.P. 10(b)(1) and (2). Appellant shall pay to the municipal panel at the time of ordering the deposit amount required under V.R.A.P. 10(b)(7). Before the transcription begins, the municipal panel shall pay the transcription service a deposit pursuant to that provision.

(C) In cases where the proceedings before the appropriate municipal panel were recorded electronically, the court, on motion of the appellant and a showing of financial hardship or other good cause made before a transcript has been ordered, may allow the electronic recording to be
accepted as part of the record in place of a transcript. If the court grants the motion, the appellant must order copies of the electronic recording from the clerk or other appropriate officer of the municipal panel, who shall send one copy to the clerk of the environmental division, one to the appellant, and one to every other party, billing the appellant for the copies.

(2) From the Commissioner of Forests, Parks, and Recreation. An appeal from a decision of the commissioner of forests, parks, and recreation under 10 V.S.A. § 2625(f) shall be on the record of the proceedings before the commissioner. Within 30 days after the filing of the notice of appeal, the commissioner shall transmit the papers and exhibits filed to the clerk of the Environmental Court in the manner provided in Rule 11(b) of the Rules of Appellate Procedure. If those proceedings have been electronically recorded, the provisions of paragraph (1) of this subdivision concerning electronic recording apply.

(i) Remand for Reconsideration. At the request of the tribunal appealed from, the court, at any time prior to judgment, may remand the case to that tribunal for its reconsideration.

(j) Judgment. The order of the court may affirm, reverse, or modify the decision of the tribunal appealed from, may remand the case for further proceedings consistent with the order of the court, and may expressly set forth conditions and restrictions with which the parties must comply.

(k) Appeals to the Supreme Court.

(1) Rules Applicable. Except as modified by this subdivision, the Vermont Rules of Appellate Procedure, so far as applicable, shall govern all proceedings under this subdivision.

(2) Filing and Service. An appeal from a decision in a proceeding in the Environmental Court under this rule shall be taken by filing with the clerk of the Environmental Court a notice of appeal in the form provided in paragraph (3) of this subdivision within 30 days of the date of the decision appealed from, unless the Environmental Court extends the time as provided in Rule 4 of the Rules of Appellate Procedure. The appellant shall pay to the clerk of the Environmental Court any required entry fee with the notice of appeal. The appellant shall serve a copy of the notice upon the clerk of the Supreme Court and upon counsel of record of each person that appeared in the Environmental Court and held party status at the time when the decision appealed from was rendered.

(3) Contents of Notice of Appeal. The notice of appeal must specify the party or parties taking the appeal; must designate the judgment, order, or part thereof appealed from; must name the court to which the appeal is taken; and must be signed by the appellant or the appellant's attorney. In addition, the notice of appeal must give the address and a description of the property or development with which the appeal is concerned and the name of the applicant for any permit involved in the appeal and must set forth facts showing that the appellant is entitled to appeal pursuant to 10 V.S.A. § 8505(a)(1) or (2) or shall be accompanied by a motion requesting the
Supreme Court to allow the appeal on the grounds specified in 10 V.S.A. § 8505(a)(3).

(4) *Issues on Appeal.* An objection that was not raised before the Environmental Court may not be considered by the Supreme Court, unless the failure or neglect to raise that objection is excused by the Supreme Court because of extraordinary circumstances.

(5) *Interlocutory Decisions.* An appeal from a decision of the Environmental Court granting or denying party status as provided in subdivision (d) of this rule or issuing a stay pursuant to subdivision (e) of this rule may be taken before final judgment as provided in Rule 5 of the Vermont Rules of Appellate Procedure.


**Note:**

Reporter's Notes-2009 Amendment

Rule 5(b)(3) is amended to provide that the notice of appeal must advise all interested persons of the need to enter an appearance in accordance with Rule 5(c) in order to participate in the appeal. Rule 5(c) provides that persons other than intervenors under 10 V.S.A. § 8504(n) may enter an appearance by filing and serving written notice of it within 20 days after service of the last notice of appeal to be filed. Under subdivision (c), prior parties retaining party status, parties by right, and the Natural Resources Board or its panels who intervene "may file and serve an appearance in a timely fashion." Other intervenors "may enter an appearance by filing a timely motion to intervene." See Reporter's Notes to V.R.E.C.P. 5(c). Under Rule 5(b)(4)(A)-(C), the appellant is required to serve a copy of the notice of appeal on interested persons and other required persons or parties. To supplement the warning of the need for entry of appearance now contained in the notice of appeal, appellants should use Environmental Court Form 900 as a cover letter when mailing the notice. See http://www.vermontjudiciary.org/eforms/Form%20900.pdf.

Rule 5(d)(2) is amended to correct a drafting error in the original rule.


**Vermont Rules**

**RULES FOR ENVIRONMENTAL COURT PROCEEDINGS**

*As amended through July 16, 2014*

**Rule 6. Definitions**
(a) Unless specified to the contrary, or indicated otherwise in the context:

(1) The words "court," "judge," or similar terms, when used in these rules and in provisions of the Vermont Rules of Civil and Appellate Procedure incorporated in these rules shall mean the Environmental Division or one of the judges of that division or a judge acting for that judge or any Superior Judge authorized to act alone, or a member of the Vermont bar acting for that judge.

(2) The word "clerk" when used in these rules and in provisions of the Vermont Rules of Civil and Appellate Procedure incorporated in these rules shall mean the clerk of the Environmental Division of the Superior Court.

(3) The words "case manager" when used in these rules shall mean a case manager provided to the Environmental Division pursuant to 4 V.S.A. § 691(a).

(4) The word "tribunal" means an officer, agency, department, board, panel, or other body from which an appeal lies under these rules.

(b) The following terms and variations of them wherever they appear in these rules, or other rules made applicable under provisions of these rules, have the indicated meaning unless the context clearly dictates a different meaning:

(1) "Superior Court" means "Civil Division of the Superior Court."

(2) "Superior Judge" means any Superior Judge presiding in a pending action or authorized by these rules to act in particular circumstances.

(c) Other terms used in these rules shall have the meanings ascribed to them in 6 V.S.A. §§ 4802, 4861; 10 V.S.A. §§ 8002, 8502; and 24 V.S.A. §§ 4303, 4465(b).

These rules may be known and cited as the Vermont Rules for Environmental Court Proceedings.


Rule 8. Effective Date.

Vermont Rules

RULES FOR ENVIRONMENTAL COURT PROCEEDINGS

As amended through July 16, 2014

Rule 8. Effective Date

(a) Effective Date. These rules will take effect on February 21, 2005. They govern all proceedings in actions or appeals brought after they take effect and also all further proceedings in actions or appeals then pending, except to the extent that in the opinion of the court their application in a particular action or appeal pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(b) Effective Date of Amendments. Amendments to these rules will take effect on the day specified in the order adopting them. They govern all proceedings in actions or appeals brought after they take effect and also all further proceedings in actions or appeals then pending, except to the extent that in the opinion of the court their application in a particular action or appeal pending when they take effect would not be feasible or would work injustice, in which event the former procedure applies.

The Environmental Division Free Legal Clinic is offered in collaboration with the Vermont Bar Association Pro-Bono / Low-Bono Program.


Appointment times: 12:30 pm., 1:30 pm, 2:30 pm and 3:30 pm.

Location: 32 Cherry Street, Burlington, 2nd. floor of the Costello Courthouse

Target audience:

Pro Se individuals filing a case in the Environmental Division.
Pro Se individuals who are considering filing a case in the Environmental Division.
Pro Se individuals who are already involved in a case in the Environmental Division.
Pro Se individuals who have had an enforcement action brought against them by a municipality, the Agency of Natural Resources or Natural Resource Board.

Access to the clinic: Call the Environmental Division at (802) 951-1740 to make an appointment.

Disclaimer

I understand that the ENVIRONMENTAL DIVISION's free legal clinic provides advice and consultation only. I understand that the attorney will meet with me for this appointment only and will not represent me in court or provide any services other than advice today. I understand that the attorney I meet with may or may not have expertise in area of law for which I need help but that he or she will attempt to answer my questions accurately and direct me to useful resources. I understand that the information disclosed to the attorney is confidential. I understand that if I invite another person into the clinic appointment with myself and the attorney, there may not be full confidentiality. I understand that some of the information on this form may be used by the Environmental Division or the Vermont Bar Association for anonymous statistical reports.
NEED A LAWYER?

If you are a party in any of the following types of cases, you may be eligible to have legal representation by a Rutland County lawyer as part of the Rutland Pilot Project AT NO COST TO YOU:

--**Landlord/tenant eviction** cases (involving evictions or other rental property issues) in the Rutland Civil Division
--**Collections** cases (involving a debt owed to a creditor, such as a credit card company) in the Rutland Civil Division
--**Foreclosure** cases (where a home or business is being foreclosed because of a default on a mortgage loan) in the Rutland Civil Division*
--**Involuntary Guardianship** cases (if you are a proposed ward) in the Rutland Probate Division
--**Final Divorce Stipulations** cases (after review by the Family Division Judge before the case is scheduled for a final hearing) in the Rutland Family Division
--**Child Support Contempt** cases (if you are a defendant) in the Rutland Family Division

*With respect to foreclosure cases, please be aware that effective July 1, 2010, homeowners in a foreclosure case have the right to request a mediation session to determine whether proper procedures have been followed in the foreclosure process, even if the foreclosure case was filed before July 1, 2010. A Rutland Pilot Project lawyer can assist eligible homeowners in that mediation process.

A lawyer can help you ensure that the issues in your case are reviewed and your rights are protected inside and outside of the courtroom. A lawyer can also help you reach a resolution with the other party.

Eligibility for the Rutland Pilot Project depends on income. To find out if you qualify, or if you have other questions about the Project, please call Mary Ashcroft, VBA Pro Bono Coordinator, at 775-5189. Questions may also be directed to Teri Corsones, Vermont Superior Court Clerk, at 775-4394.

The Rutland County Pilot Project is made possible by funding from the Vermont Bar Foundation.
§ 4404. Appeals from listers as to grand list.

Vermont Statutes

Title 32. TAXATION AND FINANCE

Subtitle 2. TAXATION

Part 2. PROPERTY TAXATION

Chapter 131. APPEALS

Subchapter 1. TO BOARD OF CIVIL AUTHORITY

Current through 2014 Legislative Session

§ 4404. Appeals from listers as to grand list

(a) Within 14 days after the date of notice thereof a person aggrieved by the final decision of the listers under the provisions of section 4221 of this title, may appeal in writing therefrom to the board of civil authority, by lodging his or her appeal with the town clerk, who shall record the same in the book containing the abstract of individual lists. The grounds upon which such appeal is based shall therein be briefly set forth.

(b) The town clerk forthwith shall call a meeting of the board to hear and determine such appeals, which shall be held at such time, not later than 14 days after the last date allowed for notice of appeal, and at such place within the town as he or she shall designate. Notice of such time and place shall be given by posting a warning therefor in three or more public places in such town, and by mailing a copy of such warning, postage prepaid, to each member of the board, the agent of the town to prosecute and defend suits, the chair of the board of listers and to all persons so appealing.

(c) The board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine such appeals until all questions and objections are heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file such notice with the town clerk who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of such board, by certified mail. If the
board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value which will produce a tax liability equal to the tax liability for the preceding year. The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of such action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of such person.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, his or her servant, agent or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

Cite as 32 V.S.A. § 4404

§ 1533. Town board for the abatement of taxes.

Vermont Statutes

Title 24. MUNICIPAL AND COUNTY GOVERNMENT

Part 2. MUNICIPALITIES

Chapter 51. FINANCES; ACCOUNTS AND AUDITS

Subchapter 1. TAXES

Current through 2014 Legislative Session

§ 1533. Town board for the abatement of taxes

The board of civil authority, with the listers and the town treasurer, shall constitute a board for the abatement of town, town school district taxes, and current use taxes. The act of a majority of a quorum at a meeting shall be treated as the act of the board. The above requirement in respect to a quorum need not be met if the town treasurer, a majority of the listers and a majority of the selectmen are present at the meeting.

Cite as 24 V.S.A. § 1533

§ 1534. Meetings; how notified.

Vermont Statutes

Title 24. MUNICIPAL AND COUNTY GOVERNMENT

Part 2. MUNICIPALITIES

Chapter 51. FINANCES; ACCOUNTS AND AUDITS

Subchapter 1. TAXES

Current through 2014 Legislative Session

§ 1534. Meetings; how notified

Meetings of such board shall be notified like meetings of the board of civil authority, except that at least one of the listers shall have personal notice of such meetings.

Cite as 24 V.S.A. § 1534
§ 1535. Abatement.

Vermont Statutes

Title 24. MUNICIPAL AND COUNTY GOVERNMENT

Part 2. MUNICIPALITIES

Chapter 51. FINANCES; ACCOUNTS AND AUDITS

Subchapter 1. TAXES

Current through 2014 Legislative Session

§ 1535. Abatement

(a) The board may abate in whole or part taxes, interest, or collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

(1) taxes of persons who have died insolvent;

(2) taxes of persons who have removed from the state;

(3) taxes of persons who are unable to pay their taxes, interest, and collection fees;

(4) taxes in which there is manifest error or a mistake of the listers;

(5) taxes upon real or personal property lost or destroyed during the tax year;

(6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed.

(7) [Repealed.]

(8) [Repealed.]

(9) taxes upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

(b) The board's abatement of an amount of tax shall automatically abate any uncollected interest and fees relating to that amount.
(c) The board shall, in any case in which it abates taxes, interest, or collection fees accruing to the town, or denies an application for abatement, state in detail in writing the reasons for its decision.

(d) The board may order that any abatement as to an amount or amounts already paid be in the form of a refund or in the form of a credit against the tax for the next ensuing tax year, and for succeeding tax years if required to use up the amount of the credit. Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered. Interest on taxes paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest. When a refund has been ordered, the board shall draw an order on the town treasurer for such payment.

Cite as 24 V.S.A. § 1535

History. Amended by 2012, No. 155, §6, eff. 7/1/2012.