



Department of Health

Environmental Health
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HealthVermont.gov

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Agency of Human Services

November 30, 2023

Dear Town Health Officers:

Governor Scott signed into law Act 53 (2023), which amends Title 18 of the Vermont Statutes to repeal the state Board of Health. All matters that would have previously gone to the state Board of Health will now be sent to the Superior Court of the county in which the person resides or maintains a place of business. This change affects the appeal rights provided to a person or party against whom a health order or emergency health order has been issued pursuant to 18 V.S.A. §126 or 127.

Effective immediately, if a town health officer is issuing a notice of intent to seek a health order pursuant to 18 V.S.A. §126, or if a town health officer is issuing an emergency health order pursuant to 18 V.S.A. §127 must be accompanied by a statement of procedural rights that describes the new appeals process.

Based on guidance from the Attorney General's office, the Health Department has provided suggested statement of procedural rights for health orders and emergency health orders in the enclosed templates, but, as always, the Department encourages town health officers and local boards of health to contact their town attorneys with legal questions. This suggested statement of procedural rights replaces those we sent in July of 2023.

The Town Health Officer Manual will be updated to reflect these changes, and the templates will be posted on the Town Health Officer webpage.

Thank you for the important work you do. Town health officers serve an important role in investigating and mitigating potential or existing public health hazards in their town.

Please do not hesitate to contact the Department of Health with questions or for technical support. You can reach the Environmental Health Division at 800-439-8550 or ahs.vdhtho@vermont.gov.

Sincerely,

Meg McCarthy
Environmental Health Division
Vermont Department of Health



STATEMENT OF PROCEDURAL RIGHTS

1. Pursuant to 18 V.S.A. § 128(a), you have the right to appeal this decision to the Civil Division of Superior Court in the county where you reside or maintain a business.
2. Appeals are governed by Vermont Rule of Civil Procedure 74.
3. Pursuant to V.R.C.P. 74(b), in order to appeal a decision, you must send a Notice of Appeal to the designated officer of the Town/City of [] within thirty (30) days of the decision:

[Contact information for designated officer here, usually clerk, treasurer, manager, or selectperson]
4. Your Notice of Appeal must: specify who is taking the appeal, identify the decision being appealed, and name the court where you are taking the appeal.
5. Upon receipt of the Notice of Appeal, the Town/City will provide you with a list of all interested parties and instructions to serve all interested parties, and the Civil Division of the Superior Court, with the Notice.
6. Pursuant to V.R.C.P. 74(c), an appeal to Superior Court **does not stay** enforcement of the Town/City's decision. You are obligated to follow the decision unless you request, and the Court grants, a motion to stay the decision pending the appeal.
7. The Superior Court will consider the matter *de novo* (anew) and all persons and parties in interest, as determined by court rule, may appear and be heard. You have the right to bring an attorney and witnesses.