



VPA Comments: Draft Solar Siting Task Force Recommendations [1/5/16]

Planning

Add intro language that:

- a. Highlights the need to recognize solar—especially distributed solar— as a form of land development, as well as energy development, with a potentially large footprint (acreage), and associated impacts (not limited to aesthetic) – and a form of development that also may compete with/displace other forms of planned land use and development.
- b. Emphasizes the need for integrated energy and land use planning at all levels (state, regional, local, utility), under statutory state energy and planning and development goals [Title 30 and 24 VSA § 4302].
- c. Calls for more detailed and integrated regional and municipal energy/land use planning and mapping, to inform/engender community discussion around solar energy development, to define regional/municipal plan siting policies, and to inform and direct/guide facility siting decisions *in advance* of the Section 248 permitting process [per Siting Commission recommendations].
- d. Calls for regional and municipal planning to better inform the Section 248 process—at minimum with regard to “orderly development of the region” and “community standards” under the Quechee Test [per PSD project, Siting Commission Recommendations]
- e. Ensure that regional and municipal plans developed through this process are given additional weight within the Section 248 process [Siting Commission recommendations]

As context note/reference:

- a. **State planning and development goals [Vermont Planning and Development Act, 24 VSA § 4302]** – as applicable to state agency/PSD plans, regional and municipal plans – including § 4302(c)(7) “To encourage the efficient use of energy and the development of renewable energy resources.”

Also suggest specifically highlighting state goals under §4302(b)(1)-(4) as applied to planning process related to facility siting:

- (1) To establish a coordinated, comprehensive planning process and policy framework to guide decisions by municipalities, regional planning commissions, and State agencies.*
- (2) To encourage citizen participation at all levels of the planning process, and to assure that decisions shall be made at the most local level commensurate with their impact.*
- (3) To consider the use of resources and consequences of growth and development for the region and the State, as well as the community in which it takes place.*
- (4) To encourage municipalities to work together creatively together to develop and implement plans.*

- b. **Required regional and municipal energy plan elements** under 24 VSA §§ 4348a, 4382.
- c. **Optional RPC duties specific to distributed power** under 24 VSA § 4345(1), to “work with regulated utilities, the Department of Public Service, the Department of Public Safety, potential developers of distributed power facilities, adjoining regional planning commissions, interested regional entities from adjoining states, and citizens of the region to propose and evaluate alternative sites for distributed power facilities...”
- d. **Previous Siting Commission recommendations w/ re to regional, municipal plans** – status in Section 248 proceedings
- e. **PSD/RPC Pilot Project** –to establish planning/energy mapping protocols, and to develop plan guidelines/policies/standards that are given more weight in the Section 248 permitting process, per Siting Commission recommendations.

VPA Planning Recommendations:

Title 30

1. **Clarify/define “public good” and “statewide interests”** w/in context of Title 30 *and other applicable state policies, goals* as applicable to energy facility development (e.g., w/ re to land use, economic development, housing, etc.),
2. **Amend Title 30, Ch.5 (and Ch.89?) in appropriate locations to clarify that solar (energy facility) development is also a form of land development** subject to PSB jurisdiction/review – especially w/re to the integration of state planning and development goals (under 24 VSA § 4302) as applicable to PSD comprehensive energy planning (e.g., per 3 VSA § 4020).
3. **Make affected RPCs parties by right under § 248(4)** as for host municipalities – especially in recognition that RPCs are now required (under 24 VSA §4345a(14)), to “Appear before the Public Service Board to aid the Board in making determinations under 30 VSA § 248”
4. **Update language, criteria under Title 30 w/re to clarifying, strengthening PSB consideration given to approved regional, municipal plans** in the Section 248 process [per Siting Commission recommendations], particularly with regard to “orderly development of the region” and “community standard” as applied under the Quechee Test.
5. **Allow for PSB consideration of municipal zoning and subdivision regulations** w/ regard to the interpretation of vague plan policies/community standards for land subdivision, project siting, site layout and design, resource protection and impact mitigation, as applicable to other allowed development (principal or accessory uses) within the district in which it is located (as now provided for Act 250 review).
6. **Repeal statewide minimum setback requirements enacted in 2015 when/where more specific and nuanced siting guidance is provided (by PSD, in regional municipal plans, etc.)**—see below re development of best management practices, guidelines

Title 24

7. **Amend § 4302(7)** (state planning, development goals) to more specifically recognize/reference state comprehensive energy plan, state renewable energy goals under Title 30. [e.g., as amended to reference basin planning last year...]
8. **Amend § 4345a** (required RPC duties) to incorporate an updated version of § 4345(1) language (optional RPC duties) – e.g., under 4345a(14) – *but only to the extent that state/PSD funding is available to support this requirement, e.g., under contract w/ RPCS (e.g., similar to DHCD, VTrans, VANR RPC contracts).*
9. **Update regional, municipal energy plan element requirements** (under 24 VSA §§ 4348a, 4382) (e.g., per Siting Commission recommendations) to specifically address the siting of distributed renewable energy systems, and to require **a map (of preferred siting and exclusion areas)**—for PSB use in interpreting community (applicable to a specific location, project).
10. **Update § 4413(a)(1) (Limitations) to re-establish limited municipal jurisdiction for the permitting of smaller, accessory systems (e.g., <=15 kV), e.g.,** w/re to location, size, height, etc. – in a manner that does not have the effect of prohibiting, or interfering with the intended functional use – especially w/re to siting in more urban, densely developed areas (e.g., for solar setbacks), state-designated areas, flood and other hazard areas, historic districts , etc.

Related

11. **Institute current PSD/RPC energy planning pilot project**—e.g., under PSD contracts w/RPCs (similar to DHCD planning, VANR tactical basin planning, VTrans regional planning)
12. **PSD – establish working group/technical advisory committee (e.g., w/ RPCs, VLCT, in association w/VPA,ASLA,REV, VNRC, etc.)** – to develop mapping protocols, model plan policies/ordinances, and/or best practices for facility siting and impact mitigation for consideration in state, regional and municipal planning, and by the PSB in Section 248 review.

VPA also supports the following, in addition to or as more generally outlined in the draft, and in more recent task force discussions:

Siting

- 1. Avoidance of primary agricultural soils –and other state, regional or locally defined and mapped resource protection areas** –e.g., as mapped “exclusion areas” – to be developed only under special (as specified) circumstances –and only in association with best practices that protect and/or mitigate the impacts of development on resources/areas identified for protection. Given that the PSD estimates that only 13,000 acres (at most, given potentially more efficient technologies) is needed to meet the state’s renewable energy goals for solar, it’s reasonable to avoid/exclude significant resources from development, except in special circumstances where they cannot be avoided – and then to minimize the impacts of development through the application of best practices and on- (or off-site) mitigation.
- 2. Regulatory and/or financial incentives for the siting of systems within “preferred locations” as defined/mapped by the region and host municipality** (e.g., to also define “co-location areas” intended to address cumulative impacts, per S.230, though acreage allocated should be determined through planning process).
- 3. Regulatory and/or financial incentives for the siting of projects in preferred, but potentially more difficult and costly development locations** – e.g., brownfields, landfills, former sand, gravel and rock quarries, commercial rooftops, etc.
- 4. Regulatory and/or financial incentives for “community systems”** (in relation to other forms of shared net-metering) that directly benefit municipalities, neighbor/residents or planned solar-ready subdivisions/ development.
- 5. Additional, tangible benefits to host and affected communities for the siting of larger systems.**

Process:

- 1. Electronic filing system, website postings and the creation of a “Public Assistance Officer” (S.230) or “Case Manager” (Siting Commission)** to provide information, guidance and improve transparency.
- 2. Party status for the Agency of Agricultural**, as an intervenor by right (similar to host municipalities, RPCs)– and the inclusion of Act 250 9B (primary ag soils), under related Section 248 criteria.
- 3. Strengthened and enforced notification process , e.g.,**
 - **To include adjoining municipalities**, especially for projects that are visible or within a specified distance from the municipal boundary.
 - **To require project information (including a sufficiently detailed site plan)** needed to evaluate the level of local/regional participation in the 248 process.
 - **To include the submission of notification/service certificates.**
- 4. Mediation process** (as required by the PSB or as requested by a party) to resolve issues within the 248 process. (Note: discussion/resolution of issues at community level, in advance of the Section 248 process should be addressed through the planning process –w/re to plan recommendations,

maps – and in community/developer discussions during the notice period, w/re to the siting, mitigation of a particular project, as informed by plan recommendations).

5. **Additional “bill-back” authority** to fund Ag Agency participation, and potentially RPC and local government participation in the Section 248 process (e.g., as required for legal representation, independent technical reviews) – especially for larger projects.
6. **Enforcement of PSB CPG conditions** – e.g., through as-built/installed certifications and a formal complaint/notification system. ***VPA generally does not support delegation of enforcement to municipalities in the absence of associated permitting authority – particularly given associated costs.***
7. **More stringent decommissioning requirements**, especially for independent, privately developed (rather than public utility) projects that extend for the life of a project – recognizing that developers will depreciate and transfer their assets, and will likely not be around in 20+ years. There is concern that municipalities, landowners and/or net-metering groups will be stuck with the cost of disposing redundant and/or relict systems, and associated site restoration.

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