

# Act 250 Overview

## Vermont Solar Siting Task Force

Jon Groveman, Chair  
Lou Borie, Executive Director  
Natural Resources Board  
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What is Act 250? Act 250 is a law which provides for a citizen-based, quasi-judicial process for reviewing and managing the environmental, social and fiscal consequences of major subdivisions and developments in Vermont.









# Natural Resources Board

NRB Chair

Natural Resources Board (5)

Alternate NRB Members (4)

General Counsel

Executive Director

Administration Manager

Assoc. Gen. Counsel

Administrative Staff (1)

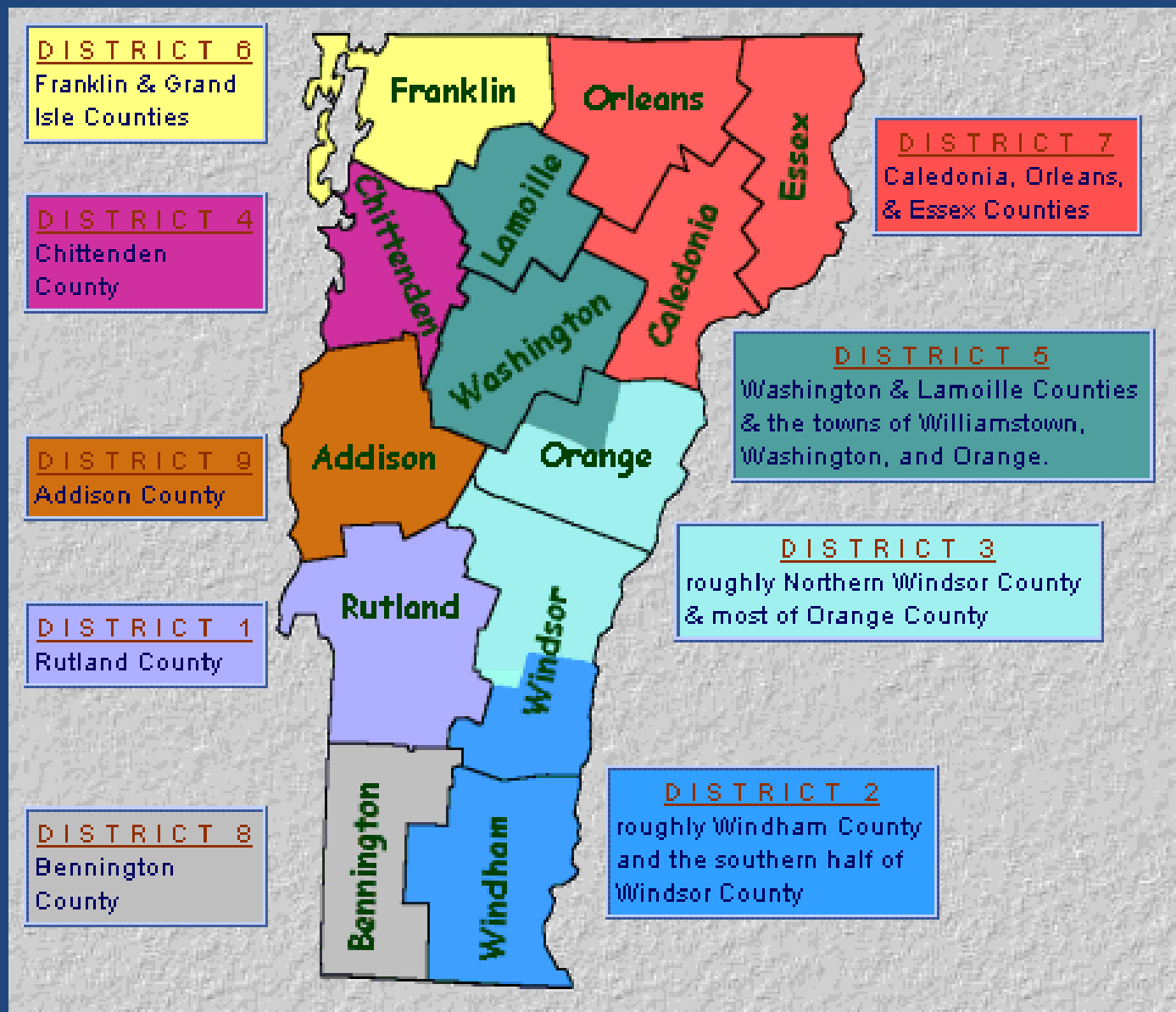
Permit Compliance Officer

## ***Five Regional Act 250 Offices***

- 9 District Coordinators
- 2 Asst. District Coordinators
- 7 Administrative Staff

- 9 District Environmental Commissions**
- Members appointed by Governor (63)
- Serve 2 – 4 years terms

# 9 Environmental Districts



District Offices:

Essex Junction  
Barre  
St. Johnsbury  
Springfield  
Rutland

# District Commission and Staff

## District Commission

- Quasi-judicial body
- Members appointed by Governor, not full-time employees
- Three regular members, up to four alternates
- Three commissioners sit on each case

## District Coordinator

- Full-time staff to District Commission
- Provides assistance to applicants, parties, and the general public
- All evidence submitted to the District Commission must be distributed to all parties

## District Office Support Staff

- Provide administrative and technical support

# Act 250 Jurisdiction

- Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations
- Commercial development on >1 or >10 ac.
- State and municipal projects >10 acres disturbance
- Housing projects with 10 or more units (higher thresholds for “priority housing projects” in designated centers)
- Communication towers >50 feet in height
- Commercial, residential, or industrial development above 2,500 feet
- Material change to an Act 250 permitted project
- Substantial changes to pre-existing (pre-1970) projects

# Act 250 Exemptions

- Farming and logging below 2,500 feet
- Electric generation and transmission facilities and telecommunications projects regulated by PSB (Sec. 248 and 248a)
- Agricultural fairs and horse shows; no buildings; open to public for < 61 days per year
- Small scale and on-farm composting



# Jurisdictional Opinion Process

- Jurisdictional Opinions (JO) Issued by District Coordinator
  - Letter form or Project Review Sheet
- Reconsideration by Coordinator within 30 days
- Appeal to Environmental Division, Superior Court, within 30 days; prior to appeal, JO is subject to reconsideration by the Natural Resources Board

# Application Review Process

Completeness Review  
by District Coordinator  
(7 days)



Application to Commission  
for Major/Minor  
Determination



**Board Rule 51: . . . “ if the district commission determines that there is demonstrable likelihood that the project will not present significant adverse impact under any of the 10 criteria . . .”**

**Major - 20%**  
Hearing scheduled  
within 40 days

**Minor - 80%**  
No hearing scheduled unless  
requested by a party by deadline --  
20 days

# Act 250 Party Status

§ 6085. Hearings; party status

(c)(1) Party status. In proceedings before the district commissions, the following persons shall be entitled to party status:

(A) The applicant;

(B) The landowner, if the applicant is not the landowner;

(C) The municipality in which the project site is located, and the municipal and regional planning commissions for that municipality.

(D) Any state agency affected by the proposed project;

(E) Any adjoining property owner or other person who has a particularized interest protected by this chapter that may be affected by an act or decision by a district commission.

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(5) Friends of the commission. The district commission, on its own motion or by petition, may allow nonparties to participate in any of its proceedings, without being accorded party status.



# The 10 Criteria

1. Air and Water Pollution
2. Water Supply
3. Impact on Existing Water Supplies
4. Soil Erosion
5. Transportation Safety and Congestion
6. Impact on Educational Services
7. Impact on Municipal Services
8. Wildlife Habitat, Historic Sites, Aesthetics
9. Impact of Growth
  - Impact of Growth, Primary Agricultural Soils, Earth Extraction, Energy Conservation, Public Investments, Settlement Patterns
10. Conformance with Local and Regional Plans

ANR  
Presumptions



# Burden of Proof

## § 6088. Burden of proof

(a) The burden shall be on the applicant with respect to subdivisions (1), (2), (3), (4), (9) and (10) of section 6086(a) of this title.

(b) The burden shall be on any party opposing the applicant with respect to subdivisions (5) through (8) of section 6086(a) of this title to show an unreasonable or adverse effect.

- The applicant always has the burden of production.  
(Environmental Board case law)

# The 10 Criteria – Burden of Proof

1. Air and Water Pollution (includes subcriteria)
- A 2. Water Supply
3. Impact on Existing Water Supplies
4. Soil Erosion
5. Transportation Safety and Congestion
6. Impact on Educational Services
- P 7. Impact on Municipal Services
8. Wildlife Habitat, Historic Sites, Aesthetics
9. Impact of Growth (includes subcriteria)
  - A • Impact of Growth, Primary Agricultural Soils, Earth Extraction, Energy Conservation, Public Investments, Settlement Patterns
10. Conformance with Local and Regional Plans



