



Municipal and Regional Energy Planning
VLCT Proposal of Amendment
April 6, 2017

24 V.S.A. § 4348a. Elements of a regional plan is amended to read:

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

...

(3) An energy element, which may include an analysis of resources, needs, scarcities, costs, and problems within the region across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of renewable energy resources; a statement of policy on patterns and densities of land use likely to result in conservation of energy; and an identification of potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources.

24 VSA § 4352. Optional determination of energy compliance; enhanced energy planning is amended to read:

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue an affirmative determination on finding that the regional plan meets the requirements of subsection (c) of this section, ~~and allows for the siting in the region of all types of renewable generation technologies.~~

(b) Municipal plan. If the Commissioner of Public Service has issued an affirmative determination of energy compliance for a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for issuance of a determination of energy compliance. The regional planning commission shall issue an affirmative determination, signed by the chair of the regional planning commission, on finding that the municipal plan meets the requirements of subsection (c) of this section and is consistent with the regional plan.

(c) Enhanced energy planning; requirements. To obtain an affirmative determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision

4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan and be confirmed under section 4350 of this title. Notwithstanding this requirement, the municipal planning commission may determine that analysis of transportation resources, needs, scarcities, costs and problems, are most effectively and efficiently addressed at the regional or state level and the municipal plan energy element will not address transportation. The energy element shall be considered complete for purposes of consideration for a determination of compliance;

(3) be consistent with the following, with consistency determined in the manner described under subdivision 4302(f)(1) of this title:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b (State energy plans); and

~~(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005; and~~

(4) meet the standards for issuing a determination of energy compliance included in the State energy plans.

(d) State energy plans; recommendations; standards.

(1) The State energy plans shall include the recommendations for regional and municipal energy planning and the standards for issuing a determination of energy compliance described in subdivision (c)(3) of this section.

(2) The recommendations shall provide strategies and options for regional planning commissions and municipalities to employ in meeting the goals and policies contained in statutes listed in subdivision (c)(3) of this section.

(3) The standards shall consist of a list of criteria for issuing a determination of energy compliance that ensure consistency with the goals and policies contained in the statutes listed in subdivision (c)(3) of this section and the recommendations developed pursuant to this subsection.

(4) In developing standards and recommendations under this subsection, the Commissioner of Public Service shall consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(5) The Commissioner of Public Service shall provide the Commissioner of Housing and Community Development with a copy of the recommendations and standards developed under this subsection for inclusion in the planning and land use manual prepared pursuant to section 4304 of this title.

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months of the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. The lack of an analysis of energy considerations related to transportation in a municipal plan shall not be a reason for making a negative determination. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

(f) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the act or decision. The provisions of 10 V.S.A. § 6024 regarding assistance to the Board from other departments and agencies of the State shall apply to this subsection. The Board shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Board shall issue a final decision within 90 days of the filing of the appeal.

(g) Municipality; determination from DPS; time-limited option. Until July 1, 2018, a municipality whose plan has been confirmed under section 4350 of this title may seek issuance of a determination of energy compliance from the Commissioner of Public Service if it is a member of a regional planning commission whose regional plan has not received such a determination.

(1) The Commissioner shall issue an affirmative determination of energy compliance for the municipal plan on finding that the plan meets the requirements of subsection (c) of this section. The lack of an analysis of energy considerations related to transportation in a municipal plan shall not be a reason for making a negative determination. The Commissioner's review of the municipal plan shall be for the purpose only of determining whether a determination of energy compliance should be issued because those requirements are met.

(2) A municipality aggrieved by an act or decision of the Commissioner under this subsection may appeal in accordance with the procedures of subsection (f) of this section.

(h) Determination; time period. An affirmative determination of energy compliance issued pursuant to this section shall remain in effect until the end of the period for

expiration or re-adoption of the plan to which it applies.

(i) Commissioner; consultation. In the discharge of the duties assigned under this section, the Commissioner shall consult with and solicit the recommendations of the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation. (Added 2015, No. 174 (Adj. Sess.), § 6, eff. June 13, 2016.)

30 VSA § 248 is amended to read:

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located.

(B) With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

The Board shall give substantial deference to land conservation measures and specific policies contained in a duly adopted municipal and regional plan until a new plan is adopted that has secured a determination of compliance or July 1, 2018, whichever comes first.