

### **Ask The League**

*Our town has received an application for a net-metered solar farm in the floodplain. Since net-metered power generating facilities are exempt from zoning regulations, are they also exempt from the town's flood hazard regulations?*

Yes. A net-metered solar farm in the floodplain is exempt from municipal regulation, including the town's flood hazard regulations. Public Service Board (PSB)-regulated power generation and transmission facilities are subject to Section 248 of Title 30, which incorporates by reference Act 250 environmental criteria included in 10 V.S.A. § 6086. The PSB will refer the application to the Vermont Agency of Natural Resources (ANR) for its review under 10 V.S.A. § 6086(a)(1)(D) for development in the Special Flood Hazard Area.

Act 138, passed in 2012, requires ANR to develop floodplain rules to regulate activities exempt from municipal regulation. According to agency staff, this state floodplain permit program should be in force by early 2015, after which development activities in floodplains exempt from municipal regulation will be subject to the ANR rules.

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