

**STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE**

24 V.S.A. § 4352 Determination No. 6

**DETERMINATION OF ENERGY PLANNING COMPLIANCE PURSUANT TO
24 V.S.A. § 4352 FOR THE TOWN OF SUDBURY'S MUNICIPAL PLAN**

I. INTRODUCTION

On February 21, 2018, the Town of Sudbury (“Sudbury” or the “Town”) requested a determination that the Sudbury Municipal Plan (“SMP” or the “Plan”) complies with the energy planning requirements set forth in 24 V.S.A. § 4352.¹ Today, in my capacity as the Commissioner of the Vermont Department of Public Service (“Department”), I have determined pursuant to 24 V.S.A. § 4352(g) that the SMP complies with the requirements of 24 V.S.A. § 4352(c) for enhanced energy planning. This determination is made solely as to whether the SMP complies with the statutory planning requirements of 24 V.S.A. § 4352(c). This determination does not mean that the Department endorses the substantive policy judgements contemplated or promoted in the Plan. Additionally, I hereby record the procedural history leading to today’s determination, as well as report on the public comments the Department received on Sudbury’s certification request. Finally, some observations are offered that may prove helpful to other regional planning commissions and municipalities that choose to seek an enhanced energy planning compliance determination under 24 V.S.A. § 4352.

¹ Sudbury’s determination request is referred to in this document as the “Determination Application.” This document consists of a form-fillable checklist that identifies each planning standard the applicant must meet in order to obtain an affirmative Section 4352 determination of enhanced energy compliance.

II. PROCEDURAL HISTORY

On December 12, 2017, the Sudbury Planning Commission held a public hearing to discuss a draft of the SMP.

On January 15, 2018, the Sudbury Selectboard held a public hearing to discuss the draft SMP and voted to adopt the SMP.

On February 20, 2018, the Board of the Rutland Regional Planning Commission approved and confirmed the SMP.

On February 21, 2018, Sudbury submitted the SMP to the Department for a determination of energy compliance under 24 V.S.A. § 4352(g).

On February 23, 2018, the Department solicited recommendations from the Agencies of Agriculture, Food and Markets (“AAFM”), Commerce and Community Development (“ACCD”), Natural Resources (“ANR”), and Transportation (“AOT”) as to whether the Plan should be certified as compliant with the requirements of 24 V.S.A. § 4352.

On March 2, 2018, notice of a public hearing scheduled for March 21, 2018 was posted on the Department’s website and was also mailed directly to the Town.

On March 3, 2018 and March 15, 2018, notice of the March 21, 2018 public hearing was also published in the Rutland Herald.

On March 21, 2018, the Department convened a public hearing in the Sudbury Town Office in Sudbury, Vermont. The hearing was attended by members of the public, several of whom expressed support for the SMP.

III. AGENCY COMMENTS

Agency of Transportation

AOT does not have any recommendations for changes to the Plan and does not object to certification of the plan.

Agency of Natural Resources

ANR does not object to certification of the plan. ANR commended the Town for its work in identifying specific, preferred parcels as well as encouraging the siting of renewable energy generation on impervious surfaces. ANR also provided comments about the suitability designation of certain areas and how some local constraints were reflected in the mapped resource areas.

Agency of Agriculture, Food, and Markets

AAFAM does not object to certification of the Plan. AAFAM provided several comments that could, if addressed during future plan updates, make the plan more comprehensive. They include further mapping and details regarding the siting of renewable generation, consideration of invasive insects that can impact Vermont forests and trees, the inclusion of primary and statewide agricultural soils, and strategies to promote local food systems.

IV. PUBLIC COMMENTS

I thank the members of the public who took the time to provide the Department with feedback on the Plan and this review process. It has been both my duty and my privilege to listen to and consider these public comments, which reflect the importance of this planning process to the residents of Sudbury. This determination decision I am statutorily charged with making affects the lives of the citizens of Sudbury and I have not undertaken it lightly.

One member of the public conveyed the challenge that planning for and meeting the standards presents to a small municipality such as Sudbury. Others expressed gratitude to the Rutland Regional Planning Commission for its support throughout the planning process as well as a desire for appropriately sited solar facilities. Finally, others expressed support for the Plan and a desire for the Plan to receive an affirmative determination of energy compliance.

IV. DEPARTMENT OBSERVATIONS

Discussion of Public Comments

I recognize and sympathize with the concerns expressed by the citizens of Sudbury at the public hearing regarding the complexity and difficulty of the planning process and the related planning standards that must be met to achieve certification of an energy plan. The planning process to receive a determination of energy compliance requires planning commissions to examine several difficult issues, such as estimating current energy use, identifying reasonable targets for future energy use, assessing the suitability of land for renewable energy generation, and establishing pathways to move from the present consumption estimates to established future targets. I also appreciate and understand the desire many Vermonters have to preserve our communities as they are today. That said, we must also look towards the future and plan with future generations in mind. As such, I encourage planning commissions to have an open mind when asking and answering these questions and to be amenable to planning for changes that may be necessary to ensure the prosperity and well-being of future generations that will bear the consequences of the planning decisions made in our communities today.

Additionally, I commend the Sudbury Planning Commission for its efforts to identify preferred sites for the siting of renewable generation. Completing the outreach and education

necessary to ensure participation by the landowners could not have been an easy undertaking. It is this type of robust engagement that strengthens this planning process and stands as a model for any municipality that is intent on achieving community support for and participation in the enhanced energy planning process.

Discussion of Standard 13.A

In seeking a determination of compliance with the enhanced energy planning requirements set forth in 24 V.S.A. §4352(c), the law requires the Town to demonstrate that the SMP meets the planning standards prepared and published by the Department on November 1, 2016 (the Determination Standards). Standard 13.A asks, “Are areas identified as unsuitable for particular categories or sizes of generators consistent with the resource availability and/or land use policies in the regional or municipal plan applicable to other types of land development?”

The SMP states on page 37:

It is town policy that the areas identified on the Wind Resource Areas map and identified as resource areas for industrial scale wind be designated as unsuitable given their valuable natural resource values and because of other town policies that prohibit other development. Three of the areas of highest elevation – High Pond, Government Hill, and Bald Hill – all lie within the town’s conservation district, defined elsewhere in this Plan as “unconditionally protected from development” because they contain “significant natural resources...of importance to the town.”

The SMP policy statement above designates the areas identified on the Wind Resource Areas map and those identified as the resource areas for “industrial scale” wind generation facilities as areas that are unsuitable for industrial-scale wind development. The data underlying the Rutland RPC mapping analysis uses wind speeds at 30, 50, and 70-meter hub heights to determine the potential for wind generation. The data for the 70-meter hub height is used on Sudbury’s Wind Resources Areas Map to determine where sufficient wind speeds exist to

support an industrial-or utility-scale wind generation project. A review of the data for 30, 50, and 70-meter hub heights used by the Rutland RPC to develop Sudbury's Wind Resources Areas Map shows that there are no 70-meter hub height wind generation resources in the Town of Sudbury. Thus, Sudbury's policy statement above that designates areas as unsuitable for industrial-scale wind is consistent with the availability of wind resources in Sudbury to support industrial-scale wind generation in that no such resources exist.

In sum, given the Town's expressed preference for and accommodation of residential-scale wind generation in the SMP, as well as the fact that there are no wind resources to support industrial-scale wind generation development in the Town, I have concluded that the SMP meets Standard 13.A.

Dated at Montpelier, Vermont this 19th day of April 2018.



June E. Tierney
Commissioner
Department of Public Service