

**STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE**

24 V.S.A. § 4352 Determination No. 5

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

I. INTRODUCTION

On December 14, 2017, the Town of Benson (“Benson” or the “Town”) requested a determination that the Benson Municipal Plan (“BMP” 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 BMP complies with the requirements of 24 V.S.A. § 4352(c) for enhanced energy planning. This determination is made solely as to whether the BMP 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 a report of the public comments the Department received on BMP’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 Benson’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 October 17, 2017, the Benson Planning Commission held a public hearing to discuss a draft of the BMP.

On December 4, 2017, the Benson Selectboard held a public hearing to discuss the draft BMP and voted to adopt the BMP.

On December 14, 2017, Benson submitted the BMP for a determination of energy compliance under 24 V.S.A. § 4352(g).

On December 15, 2017, the Department solicited recommendations from the Secretaries of Agriculture, Food and Markets (“AAFM”), Commerce and Community Development (“ACCD”), Natural Resources (“ANR”), and of Transportation (“AOT”) as to whether the Plan should be certified as compliant with the requirements of 24 V.S.A. § 4352.

On December 21, 2017, notice of a public hearing scheduled for January 18, 2018 was posted on the Department’s website.

On December 22, 2017 notice of a public hearing scheduled for January 18, 2018 was mailed directly to the Town.

On December 30, 2017 and January 10, 2018, notice of the January 18, 2018 public hearing was also published in the Rutland Herald.

On January 16, 2018, the Rutland Regional Planning Commission’s Board approved and confirmed the BMP.

On January 18, 2018, the Department convened a public hearing in the Benson Community Center in Benson, Vermont. The hearing was attended by members of the public, several of whom expressed support for the BMP.

III. AGENCY COMMENTS

Agency of Transportation

AOT stated that it did not have any recommendations for changes to the plan.

Agency of Natural Resources

ANR provided several comments regarding the sufficiency of land identified to meet 2050 targets, preferred locations, and possible constraints. However, ANR states that it does not object to certification of the Plan.

Agency of Agriculture, Food, and Markets

AAFM observed that “Overall...the plan meets the Act 174 requirements.” However, AAFM also provided several comments that could, if incorporated during future plan updates, make the plan more comprehensive. They include increasing the use of wood for heating purposes; the identification of candidate locations for biogas generated on site from manure, wastewater biosolids, or other bio-gas friendly sources of plant-based material; and the identification of the source of mapped primary agricultural soils.

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 Benson. This determination decision I am statutorily charged with making affects the lives of the citizens of Benson and I have not undertaken it lightly. What follows is a summary description of the comments the Department received:

Several members of the public conveyed the challenge that planning for and meeting the standards presents to a small municipality such as Benson. Benson’s only municipal staff is a

town clerk; the Town does not have a town manager or administrative assistant. Members of the Planning Commission present at the public hearing stated that the lack of municipal staff limits the municipality's ability to administer energy programs or conduct the type of one-size-fits-all planning envisioned under the municipal standards published by the Department. This person expressed a desire for the goals and requirements to be tailored to the specific restrictions and capabilities of each town. Members of the public also expressed concern that the Determination Standards² published by the Department on November 1, 2016 require municipalities to address sectors where they have limited control, e.g. transportation and the adoption of heat pumps. Finally, others expressed support for the Plan and a desire for the Plan to receive an affirmative determination of energy compliance.

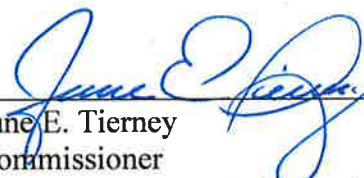
IV. DEPARTMENT OBSERVATIONS

I recognize and sympathize with the concerns expressed by the citizens of Benson 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

² See 24 V.S.A. § 4352(c)(4); Act 174 Section 9. The Determination Standards can be reviewed by visiting the Department's website and clicking on the following link: <http://publicservice.vermont.gov/content/act'174' recommendations-and-determination-standards>. Section 9 of Act 174 directed the Department to develop standards for enhanced energy planning, and further directed that these standards "address" several planning elements "in a manner consistent with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202(b). For the convenience of the applicant, the Department has published these planning standards (i.e. the Determination Standards) in the form of a checklist to be completed when seeking a Section 4352 enhanced energy planning determination.

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 hold 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.

Dated at Montpelier, Vermont this 9th day of February 2018.



June E. Tierney
Commissioner
Department of Public Service