

**STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE**

24 V.S.A. § 4352 Determination No. 16

**DETERMINATION OF ENERGY PLANNING COMPLIANCE PURSUANT TO
24 V.S.A. § 4352 FOR NORTHEASTERN VERMONT DEVELOPMENT
ASSOCIATION’S REGIONAL PLAN**

I. INTRODUCTION

Today, in my capacity as the Commissioner of the Vermont Department of Public Service (“Department”), I have issued the attached certificate memorializing my affirmative determination pursuant to 24 V.S.A. § 4352(a) that the Regional Plan for the Northeast Kingdom (“Plan”) complies with the requirements of 24 V.S.A. § 4352 for enhanced energy planning.¹ This determination is made solely as to whether the Plan complies with the statutory planning requirements of 24 V.S.A. § 4352. This determination does not mean that the Department endorses the substantive policy judgments contemplated or promoted in these plans. Additionally, I hereby record the procedural history leading to the compliance determination, as well as a report of the public comments the Department received.

II. PROCEDURAL HISTORY

On September 25, 2023, the Northeastern Vermont Development Association (“NVDA”) submitted the Plan for a determination of compliance with the enhanced energy planning standards set forth in 24 V.S.A. § 4352.

¹ The Plan was re-adopted on July 29, 2023, in accordance with 24 V.S.A. § 4348b and became effective on September 2, 2023.

On October 3, 2023, the Department solicited recommendations from the Secretaries of the Agencies of: Agriculture, Food, and Markets; Commerce and Community Development; Natural Resources; and Transportation as to whether the Plan should be certified as compliant with the requirements of 24 V.S.A. § 4352. The Department received a response from the Agency of Transportation.

On October 10, 2023, notice of a public hearing scheduled for October 25, 2023, was emailed directly to the NVDA.

On October 10, 2023, notice of a public hearing scheduled for October 25, 2023, was posted on the Department's website.

On October 11, 2023, notice of a public hearing scheduled for October 25, 2023, was published in the Caledonian Record.

On October 25, 2023, the Department convened a hybrid public hearing via the Microsoft Teams Platform and in the NVDA's Conference Room in St. Johnsbury, Vermont.

III. AGENCY COMMENTS

Agency of Commerce and Community Development

The Agency of Commerce and Community Development did not submit any comments on the Plan.

Agency of Transportation

The Agency of Transportation reviewed NVDA's Plan and commented that it complies with the energy planning requirements set forth in 24 V.S.A. § 4352 as they relate to the transportation sector. The Agency of Transportation also noted that the Assessment Report provided addressed the new requirements established by the 2022 Comprehensive Energy Plan,

and that they look forward to reviewing the Plan that NVDA is in the process of developing that will incorporate the 2023 LEAP analysis.

Agency of Natural Resources

The Agency of Natural Resources did not submit any comments on the Plan.

Agency of Agriculture, Food, and Markets

The Agency of Agriculture, Food, and Markets did not submit any comments on the Plan.

IV. PUBLIC COMMENTS

I thank the member of the public who took the time to provide me with feedback on the Plan at the October 25th public hearing. Mr. Mark Whitworth, who is also on the Newark Planning Commission and the board and executive committee of NVDA, commented that the drafting of regional plans is a tremendous amount of work and requires balancing competing goals. He commended the work of the team of planners at NVDA.

V. DEPARTMENT OBSERVATIONS

Act 174 created a new energy planning process in Vermont for regional planning commissions (“RPCs”) and municipal planning bodies. Pursuant to this process, an RPC has the option of submitting its duly adopted regional plan to the Commissioner of the Department of Public Service for an affirmative determination of compliance with the statutory standards of 24 V.S.A. § 4352. When a regional plan has received an affirmative compliance determination under Section 4352, the Vermont Public Utility Commission is required to afford substantial deference in Section 248 proceedings to the land conservation measures and specific policies contained in such a duly-adopted regional plan when reviewing any proposed electric generation facility in the region covered by that plan.

While a regional plan that has received an affirmative determination of energy planning compliance must be given substantial deference by the Public Utility Commission when reviewing the siting impact of a project, such as under the "orderly development" criterion of Section 248(b)(1), that does not mean that the regional plan automatically or ultimately decides whether a project will receive a Section 248 permit. Rather, a regional plan that has been determined to comply with 24 V.S.A. § 4352 will only serve, as warranted, to inform the several statutory criteria the Commission must apply when considering whether a proposed project should receive a Section 248 permit.

Pursuant to 24 V.S.A. § 4348b(a), regional plans expire every eight years, thereby requiring plan amendments or updates and adoption or readoption at that time, although there may be other circumstances that might cause an RPC to update their plan before the end of the eight year period. Under 24 V.S.A. § 4352(h), an affirmative determination of energy compliance issued remains in effect until either the end of the period for expiration or the plan is readopted. Thus, once a plan has been readopted or expired, the RPC must submit their new plan for determination of compliance with 24 V.S.A. § 4352.

The Department views each iteration of the regional plans and their determination of compliance with 24 V.S.A. § 4352 as an important part of the planning process. Each new plan provides an opportunity to review, update, and reflect changes within the community since the adoption of the previous plan and the energy element. As such, the Department asks that RPCs and municipalities take steps to make updates to the extent possible, ensuring the data, goals, and recommendations reflect current reality of the region. Such updates will prove key to effectively taking actions and measuring progress toward reaching the state's clean energy and greenhouse gas reduction targets.

VI. CONCLUSIONS

Based on my review of the Plan, I have determined that it complies with the requirements of 24 V.S.A. § 4352.

Dated at Montpelier, Vermont this 27th day of November 2023.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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June E. Tierney

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June E. Tierney, Commissioner

Vermont Department of Public Service