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STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE

24 V.S.A. § 4352 Determination No. 26

PROVISIONAL DETERMINATION OF ENERGY PLANNING COMPLIANCE PURSUANT TO 24 V.S.A. § 4352 FOR BENNINGTON COUNTY REGIONAL COMMISSION REGIONAL PLAN

I. INTRODUCTION

Today, in my capacity as the Commissioner of the Vermont Department of Public Service ("Department"), I am issuing this certificate memorializing my provisional affirmative determination pursuant to 24 V.S.A. § 4352(g)(1) that the draft 2026 Bennington County Regional Commission Regional Plan ("Draft 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 Draft Plan complies with the statutory planning requirements of 24 V.S.A. § 4352, and does not mean that the Department endorses the substantive policy judgments contemplated or promoted in the Draft Plan. Additionally, I hereby describe context for this energy planning paradigm, the process for the Department's review, the provisional determination process, and any relevant comments from this review leading to the provisional compliance determination.

II. ACT 174 CONTEXT

Act 174 sets an 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 energy planning compliance with the

[1] The Draft Plan was published on August 12, 2026, at https://bcrcvt.org/wp-content/uploads/2026/08/RegionalPlan_FullDraft_8-12-26.pdf.

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statutory standards of 24 V.S.A. § 4352. When a regional plan has received an affirmative determination of energy planning compliance under 24 V.S.A. § 4352, the Vermont Public Utility Commission is required to afford substantial deference in 30 V.S.A. § 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 planning compliance remains in effect until it either expires at the end of the eight-year period or the plan is readopted. Thus, once a plan has expired or needs to be readopted, the RPC must submit their new plan for determination of compliance with 24 V.S.A. § 4352 or proactively request an extension of their current affirmative determination, if warranted, to maintain its affirmative determination.

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Act 97 of 2025 added a provision that enables RPCs to request a provisional affirmative determination of energy compliance. The Department must be notified of the RPC's intent to request a determination at least 30 days prior to the first public hearing on the plan. If the Commissioner of Public Service chooses to issue a provisional determination of energy compliance, it shall remain in effect for two months following the adoption of the new plan. This enables the RPC to maintain substantial deference during the 60-day period the Department has to review adopted plans.

III. REVIEW PROCESS & FINDINGS

On June 11, 2026, the Bennington County Regional Commission notified the Department of its intent to pursue a provisional determination of energy compliance pursuant to 24 V.S.A. § 4352, as modified by Act 97 of 2025.[2] On August 13, 2026, the Bennington County Regional Commission submitted their Draft Plan along with a memo detailing changes made to earlier drafts in response to Department comments and a complete copy of the Energy Planning Standards Checklist.

Department staff conducted a review of the Draft Plan and recommend provisional certification of the Plan as compliant with the requirements of 24 V.S.A. § 4352 and in conformance with the Department's Enhanced Energy Planning Standards.

VI. PROVISIONAL DETERMINATION

Based on my review of the Draft Plan, I have determined that it complies with the requirements of 24 V.S.A. § 4352 and issue this affirmative provisional determination of energy compliance, on the condition that no substantive changes are made to this Draft Plan prior to its

[2] Signed May 13, 2026, Act 97 authorized the provisional determination process. The process requires RPCs to notify the Department of their intent to seek a provisional determination at least 30 days prior to the first public hearing on the plan. The Bennington County Regional Commission held their first public hearing on July 16, 2026.

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adoption. This provisional determination shall remain in effect for two months following adoption of the Draft Plan.

Dated at Montpelier, Vermont this **17th** day of **September, 2026**.

VERMONT DEPARTMENT OF PUBLIC SERVICE

Signed by:
Kerrick Johnson
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Kerrick Johnson
Commissioner
Vermont Department of Public Service