

No. 159. An act relating to renewable energy.

(H.781)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Net Metering; Military Installation * * *

Sec. 1. 30 V.S.A. § 219a(m) is added to read:

(m) A facility for the generation of electricity to be consumed primarily by the military department established under 3 V.S.A. § 212 and 20 V.S.A. § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed on property of the military department or National Guard located in Vermont, shall be considered a net metering system for purposes of this section if it has a capacity of 2.2 MW (AC) or less and meets the provisions of subdivisions (a)(3)(B) through (E) of this section. Such a facility shall not be subject to and shall not count toward the capacity limits of subdivisions (a)(3)(A) (no more than 250 kW) and (h)(1)(A) (two percent of peak demand) of this section.

* * * Existing Farm Methane Plants * * *

Sec. 2. FINDINGS

The general assembly finds that:

(1) Vermont has received and continues to receive significant and unique benefits from the use by electric utilities of agricultural methane electric generation plants, sometimes called “cow power,” to support voluntary renewable energy pricing programs under 30 V.S.A. § 8003.

(2) In addition to the production of electric energy through a renewable fuel source, these farm methane projects have served as pioneers and laboratories for the technology of producing electricity through anaerobic digestion of wastes from farm animals and other sources.

(3) These existing farm methane projects have hosted studies and pilot projects related to the economics of electric energy production through anaerobic digestion of wastes, the use of lake weeds as digester feedstock, a computerized digester monitoring and control system, and the use of digester effluent to grow algae for use as biofuel, among others.

(4) These existing farm methane projects also have generated significant public interest in renewable energy. Three projects in the service area of Central Vermont Public Service Corp. have generated a total of roughly 20,000 visitors. In addition, some of these existing farm methane projects have received extensive national and international press coverage.

(5) These existing farm methane projects create other benefits to Vermont such as support of its farm economy and working landscape, odor control, and nutrient management to reduce negative impacts on state waters.

(6) In part because of the success demonstrated by these projects, in 2009, the general assembly enacted amendments to section 30 V.S.A. § 8005 to require the public service board to create and implement a “standard offer”

program for contracts with new renewable energy plants with a plant capacity of 2.2 MW or less.

(7) The 2009 legislation set the default price for an eligible agricultural methane plant at \$0.12 per kilowatt-hour (kWh), which the public service board subsequently increased to \$0.141 per kWh.

(8) While these prices are available to new farm methane plants under the standard offer, the existing farm methane projects that helped to pave the way for this initiative are experiencing serious economic losses because the structure of the prices paid to these projects is dependent on the wholesale electric energy market, and the price for power on that market has dropped significantly. The public service board has approved an interim, six-month plan to stem these losses, but a longer term solution is required.

Sec. 3. 30 V.S.A. § 8005(b)(2)(F) is added to read:

(F) Notwithstanding any other provision of this section, on and after June 8, 2010, a standard offer shall be available for a qualifying existing plant.

(i) For the purpose of this subdivision, “qualifying existing plant” means a plant that meets all of the following:

(I) The plant was commissioned on or before September 30, 2009.

(II) The plant generates electricity using methane derived from an agricultural operation and has a plant capacity of 2.2 MW or less.

(III) On or before September 30, 2009, the plant owner had a contract with a Vermont retail electricity provider to supply energy or attributes, including tradeable renewable energy credits from the plant in connection with a renewable energy pricing program approved under section 8003 of this title.

(ii) Plant capacity of a plant accepting a standard offer pursuant to this subdivision (2)(F) shall not be counted toward the 50-MW amount under this subsection (b).

(iii) Award of a standard offer under this subdivision (2)(F) shall be on condition that the plant owner and the retail electricity provider agree to modify any existing contract between them described under subdivision (i)(III) of this subdivision (2)(F) so that the contract no longer requires energy from the plant to be provided to the retail electricity provider. Those provisions of such a contract that concern tradeable renewable energy credits associated with the plant may remain in force.

(iv) The price and term of a standard offer contract under this subdivision (2)(F) shall be the same, as of the date such a contract is executed, as the price and term otherwise in effect under this subsection (b) for a plant that uses methane derived from an agricultural operation. However, the board by June 7, 2010, may set a different price for a standard offer contract under this subdivision (2)(F) if it determines that such a different price will result in

an economic benefit to a qualifying existing plant that is equivalent to the benefit otherwise received under this subsection (b) by a standard offer plant that uses methane derived from an agricultural operation. In making such a determination, the board shall consider the qualifying existing plants as one separate category, apply the criteria of subdivisions (2)(B)(i)(I) and (II) of this subsection (b) to the qualifying existing plants, and consider other relevant economic circumstances of those plants, including any existing contract provisions related to tradeable renewable energy credits.

[The last two sentences of 30 V.S.A. § 8005(b)(2)(F)(iv) were inadvertently included in the act. House Journal at page 1991 (May 8, 2010).]

* * * Clarification, Standard Offer Cost Allocation to Utilities * * *

Sec. 4. 30 V.S.A. § 8005(b)(7) is amended to read:

(7) Create a mechanism by which a retail electricity provider may establish that it has a sufficient amount of renewable energy, or resources that would otherwise qualify under the provisions of subsection (d) of this section, in its portfolio so that equity requires that the retail electricity provider be relieved, in whole or in part, from requirements established under this subsection that would require a retail electricity provider to purchase SPEED power, provided, ~~however,~~ that this mechanism shall not apply to the requirement to purchase power under subdivision (5) of this subsection ~~unless the~~. However, a retail electricity provider ~~seeking to use the mechanism that~~ establishes that it receives at least 25 percent of its energy from qualifying

SPEED resources that were in operation on or before September 30, 2009, shall be exempt and wholly relieved from the requirements of subdivisions (b)(5) (requirement to purchase standard offer power) and (g)(2) (allocation of standard offer electricity and costs) of this section.

* * * Permitting of Renewable Energy Projects; Interconnection * * *

Sec. 5. 30 V.S.A. § 8005(i) is amended to read:

(i) With respect to standard offers under this section, the board shall determine whether its existing rules sufficiently address ~~interconnection,~~ metering, and the allocation of metering ~~and interconnection~~ costs, and make such rule revisions as needed to implement the standard offer requirements of this section.

Sec. 6. 30 V.S.A. § 8007 is added to read:

§ 8007. SMALL RENEWABLE ENERGY PLANTS; SIMPLIFIED

PROCEDURES

(a) The same application form, rules, and procedures that the board applies to net metering systems of 150 kilowatts (kW) or less under sections 219a and 248 of this title shall apply to the review under section 248 of this title of any renewable energy plant with a plant capacity of 150 kW or less and to the interconnection of such a plant with the system of a Vermont retail electricity provider. This requirement includes any waivers of criteria under section 248 of this title made pursuant to section 219a of this title.

(b) With respect to renewable energy plants that have a plant capacity that is greater than 150 kW and is 2.2 MW or less, the board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for such a plant under the provisions of section 248 of this title, and the interconnection of such a plant with the system of a Vermont retail electricity provider.

(1) In developing such rules or orders, the board:

(A) Shall waive the requirements of section 248 of this title that are not applicable to such a plant, including, for a plant that is not owned by a Vermont retail electricity provider, criteria that are generally applicable to such a provider.

(B) May modify notice and hearing requirements of this title as it deems appropriate.

(C) Shall simplify the petition and review process as appropriate.

(2) Notwithstanding 1 V.S.A. §§ 213 and 214, a petitioner whose petition under section 248 of this title is pending as of the effective date of a board rule or order under subsection (b) of this section may elect to apply the standards and procedures of such a rule or order to the pending petition if the petition pertains to a renewable energy plant with a plant capacity that is greater than 150 kW and is 2.2 MW or less.

Sec. 7. RULES; CONFORMANCE; ORDER; INITIAL ADOPTION

(a) As of the effective date of this act, 30 V.S.A. § 8007(a) shall supersede any contrary provisions of the rules of the public service board. No later than February 15, 2011, the board shall conform its rules to the requirements of 30 V.S.A. § 8007(a).

(b) No later than September 1, 2010, the public service board shall issue an initial order establishing standards and procedures under 30 V.S.A. § 8007(b). Provided that the board meets the September 1 deadline contained in this subsection, the board may combine its consideration of interconnection requirements and procedures under 30 V.S.A. § 8007(b) with consideration of interconnection requirements and procedures applicable to other types of energy plants not described in that subsection.

* * * Transfer to Utilities of Standard Offer Contracts * * *

Sec. 8. 30 V.S.A. § 8005(k) is amended to read:

(k) A Vermont retail electricity provider shall not be eligible for a standard offer contract under subdivision (b)(2) of this section. However, under subdivision (g)(1) of this section, a plant owner may transfer to such a provider all rights associated with a standard offer contract that has been offered to the plant without affecting the plant's status under the standard offer program. In the case of such a transfer of rights, the plant shall not be considered a

utility-owned and -operated plant under subdivisions (b)(2) and (g)(2) of this section.

Sec. 9. REPEALS; TRANSITION RULES

(1) Sec. 9c of No. 45 of the Acts of 2009 is amended to read:

Sec. 9c. 32 V.S.A. § 5930z (related to business solar energy investment tax credits for corporations) is repealed for investments made on or after January 1, ~~2011~~ 2012.

(2) Sec. 16(2) of No. 45 of the Acts of 2009 is amended to read:

(2) Sec. 9b (relating to the repeal of the 76-percent portion of the business solar energy tax credit) shall apply to credits related to investments made on or after January 1, ~~2011~~ 2012.

(3) Sec. 9d of No. 45 of the Acts of 2009 (transition rules) is repealed.

Sec. 10. 32 V.S.A. § 5822(d) is amended to read:

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

(2) A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the

business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; ~~provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that, for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.~~

(3) Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

(4) Solar energy tax credit. The solar energy tax credit provided for in this section shall be taken in accordance with the provisions of § 5930z of this title.

Sec. 11. 32 V.S.A. § 5930z is amended to read:

§ 5930z. ~~PASS THROUGH OF FEDERAL ENERGY CREDIT FOR~~
~~CORPORATIONS~~ SOLAR ENERGY TAX CREDIT

(a) A taxpayer of this state shall be eligible for a the business solar energy tax credit against the tax imposed under section 5822 or 5832 of this title in an

amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

(b) Any taxpayer who has received a credit under subsection (a) of this section in any prior year shall increase its personal or corporate income tax under this chapter by the amount of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year.

(c) The clean energy development board (the board) established pursuant to 10 V.S.A. § 6523 shall certify to the department no more than \$9,400,000.00 of eligible solar energy tax credits. The board shall set aside a portion of this amount for the systems described in subdivision (2) of this subsection. Credits shall be certified only if one of the two following criteria is met:

(1) The investment for which the solar energy tax credit is claimed is made after January 1, 2010, and:

(A) The investment pertains to a solar energy plant that has a plant capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less;

(B) On or before July 15, 2010, the solar energy plant owner filed a complete petition with the public service board for a certificate of public good under 30 V.S.A. § 248;

(C) On or before September 1, 2011, construction on the solar energy plant is complete and the plant is commissioned or is ready to be commissioned within the meaning of 30 V.S.A. § 8002(11); and

(D) By July 15, 2010, the taxpayer has provided to the clean energy development board on a form prescribed by the board information necessary for the fund to determine the taxpayer's eligibility for the credit; or

(2)(A) The investment is made after January 1, 2010, and before December 31, 2010, and pertains to a system that constitutes energy property as defined in 26 U.S.C. § 48(a)(3)(A)(i) and that does not require a certificate of public good under 30 V.S.A. § 248, or pertains to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150 kilowatts (AC) capacity; and

(B) By December 15, 2010, the taxpayer has provided to the clean energy development board on a form prescribed by the board information necessary for the fund to determine the taxpayer's eligibility for the credit.

(d) The final amount of any solar energy tax credit certified under this section shall not exceed the amount awarded to the taxpayer under 26 U.S.C. § 48.

(e) Any unused solar energy tax credit may be carried forward for no more than five succeeding tax years following the first year in which the solar energy tax credit is claimed.

(f) On a regular basis, the department shall notify the treasurer and the clean energy development board of solar energy tax credits claimed pursuant to this section, and the board shall cause to be transferred from the clean energy development fund to the general fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.

(g) The clean energy development board and the department shall collaborate in implementing the certification of credits under this section.

Sec. 12. [Deleted]

* * * Definition of Renewable Energy; Hydroelectric * * *

Sec. 13. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

For purposes of this chapter:

* * *

(2) “Renewable energy” means energy produced using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate.

(A) For purposes of this subdivision (2), methane gas and other flammable gases produced by the decay of sewage treatment plant wastes or landfill wastes and anaerobic digestion of agricultural products, byproducts, or wastes shall be considered renewable energy resources, but no form of solid waste, other than agricultural or silvicultural waste, shall be considered renewable.

(B) For purposes of this subdivision (2), no form of nuclear fuel shall be considered renewable.

(C) ~~For purposes of this chapter, the only energy produced by a hydroelectric facility to be considered renewable shall be from a hydroelectric facility with a generating capacity of 200 megawatts or less.~~ The only portion of electricity produced by a system of generating resources that shall be considered renewable is that portion generated by a technology that qualifies as renewable under this subdivision (2).

(D) After conducting administrative proceedings, the board may add technologies or technology categories to the definition of “renewable energy,”

provided that technologies using the following fuels shall not be considered renewable energy supplies: coal, oil, propane, and natural gas.

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* * * Report on Potential Renewable Portfolio Standard,
Potential Revision to SPEED Program * * *

Sec. 13a. RENEWABLE PORTFOLIO STANDARD; SPEED PROGRAM;

BOARD REPORT

(a) Findings. The general assembly finds that:

(1) In 2005, Vermont enacted a renewable portfolio standard (RPS).

(2) The 2005 RPS required that each retail electric utility shall supply an amount of energy equal to its total incremental energy growth between January 1, 2005, and January 1, 2012, through the use of electricity generated by new renewable resources.

(3) In 2005, the general assembly deferred the effective date of the RPS to allow implementation of the Sustainably Priced Energy Enterprise Development (SPEED) program. The SPEED program was and is designed to promote the development of in-state renewable energy resources.

(4) 30 V.S.A. § 8005(d)(1) provides that the RPS will go into effect only if one of the following SPEED goals is not met:

(A) the amount of qualifying SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005, and

before July 1, 2012, equals or exceeds total statewide growth in electric retail sales during that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by qualified SPEED resources or would be provided by qualified SPEED resources that have been issued a certificate of public good; or

(B) the amount of qualifying SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005.

(5) In 2005, the general assembly also adopted a state goal to assure that 20 percent of total statewide electric retail sales before July 1, 2017, shall be generated by SPEED resources. This particular goal is voluntary. It is separate from an RPS. It does not affect whether or not an RPS comes into effect.

(6) Although a purpose of the SPEED program is to encourage in-state renewable energy resources, the SPEED statute allows its 2012 and 2017 goals to be fulfilled by electricity at all facilities owned by or under long-term contract to Vermont utilities, as long as the generating resource came into service after December 31, 2004.

(7) In a February 2010 report to the general assembly, the public service board stated that, based on load growth since 2005 and the activities of the SPEED program, it is likely that the SPEED goal will be met and an RPS will not come into effect. The board stated that:

(A) From January 1, 2005, to December 31, 2008, statewide energy usage decreased by approximately 0.1 percent.

(B) The SPEED goal of providing at least five percent of the January 1, 2005, total statewide electric retail sales from qualified SPEED resources translates into a goal of 287,421 MWh annually.

(C) The total estimated annual output of qualifying SPEED resources that are operating, approved, or pending before the board was 574,141 MWh.

(8) The total estimate annual output of SPEED resources stated in subdivision (5)(C) of this subsection is approximately 10 percent of Vermont's 2008 electric energy demand, which was 5,743,863,352 MWh.

(9) During the five years since Vermont adopted an RPS, other jurisdictions have adopted or amended their own renewable portfolio standards, including:

(A) Connecticut, which in 2007 amended its existing RPS to establish a goal that at least 23 percent of its retail load will be supplied using renewable energy by 2020.

(B) Massachusetts, which in 2008 amended its existing RPS to establish a goal that renewable energy will account for 15 percent of electricity consumption by 2020, increasing by one percent per year thereafter.

(C) New Hampshire, which in 2007 adopted an RPS that requires electricity providers to acquire renewable energy certificates (RECs) equivalent to 23.8 percent of retail electricity sold to customers by 2025.

(10) This act revises the statutory definition of “renewable” to remove a 200-MW limit on the size of hydroelectric facilities that can be considered renewable. The act delays the effective date of this revision so that it does not affect the 2012 SPEED goals described in subdivision (4) of this subsection. However, the revision could affect achievement of the 2017 SPEED goal described in subdivision (5) of this subsection, as well as the achievement of an RPS should one come into effect in Vermont.

(11) The general assembly has already recognized the environmental and economic benefits of encouraging renewable energy in adopting 30 V.S.A. §§ 202a (state energy policy) and 8001 (renewable energy goals). In light of these benefits, the history and structure of the SPEED program, and the adoption and expansion of renewable portfolio standards in other jurisdictions, there should be a reexamination of the potential implementation of an RPS in Vermont and, in lieu of such implementation, the potential revision of the goals and requirements of the SPEED program.

(b) No later than October 1, 2011, the public service board shall file a report concerning the potential development of a renewable portfolio standard (RPS) in Vermont to amend or replace the RPS enacted in 2005 and the

potential revision of the goals and requirements of the SPEED program in lieu of such an RPS.

(1) The report shall be filed with the house and senate committees on natural resources and energy, the house committee on commerce and economic development and the senate committee on finance.

(2) The report shall include at least the following:

(A) An evaluation of whether or not Vermont should adopt an RPS to amend or replace the RPS adopted in 2005 or, in lieu of adopting such an RPS, should adopt revised goals and requirements for the SPEED program.

(B) An evaluation of whether the voluntary goals and aspects of the SPEED program should be made mandatory.

(C) An evaluation of the economic and environmental benefits and costs of adopting an RPS at each of the following percentages of Vermont's electricity supply portfolio: 25, 50, 75, and 100 percent. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals at the same portfolio percentages.

(D) An evaluation of the effect on the development of in-state renewable energy resources that may occur if an RPS is adopted and, under such an RPS, out-of-state resources with capacities in excess of 200 MW are considered renewable. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals. Such evaluations shall

take into account each of the percentages discussed under subdivision (2)(C) of this subsection.

(E) Analysis of RPS statutes and rules that have been adopted in other jurisdictions and their strengths and weaknesses, and a discussion of how a Vermont RPS and, in lieu of an RPS, revised SPEED goals and requirements might integrate with such statutes and rules.

(F) Consideration of whether or not Vermont should adopt a definition of renewable resources that includes tiers or classes and a recommended proposal for such a definition.

(G) Consideration of the manner in which Vermont would require third party certification that an energy resource is renewable.

(H) Consideration of the manner in which Vermont would require third party certification that a renewable resource has low environmental impact.

(I) Consideration of the extent to which a Vermont RPS and, in lieu of such an RPS, revised SPEED goals and requirements would include the purchase of electric energy efficiency resources and the appropriate means of verification that the associated energy savings are achieved.

(J) Consideration of whether 30 V.S.A. § 8005(d)(3) (resources that count toward SPEED goals) should be revised with respect to the description

of those SPEED resources that will count toward the 2017 SPEED goal described in subdivision (a)(5) of this section.

(K)(i) Proposals for each of the following:

(I) An RPS to be considered for adoption in Vermont.

(II) In lieu of such an RPS, revised goals and requirements for the SPEED program to be considered for adoption in Vermont.

(ii) Each of these proposals shall include a summary of the proposal, a discussion of each major component, the reasons for the proposal, and draft statutory language for the proposal.

(3) The report may address any other issues that the board determines to be relevant to the adoption in Vermont of an RPS and revised goals and requirements for the SPEED program.

(4) Prior to drafting and submitting the report, the board shall consult with interested and affected persons and entities such as the department of public service, other state agencies, utilities, environmental advocates, consumer advocates, and business organizations.

(c) In performing its duties under this section, the board shall have authority to retain expert witnesses, counsel, advisors, and stenographic and other research assistance it may require. The board may compensate the same and allocate related costs, as well as the costs of performing or procuring

studies, to retail electricity providers in the same manner authorized for personnel in particular proceedings under 30 V.S.A. §§ 20 and 21.

* * * Environmental Attributes; Utility Revenues * * *

Sec. 13b. 30 V.S.A. § 8008 is added to read:

§ 8008. AGREEMENTS; ATTRIBUTE REVENUES; DISPOSITION BY BOARD

(a) For the purpose of this section, “the revenues” means revenues that are from the sale, through tradeable renewable energy certificates or other means, of environmental attributes associated with the generation of renewable energy from a system of generation resources with a total plant capacity greater than 200 MW and that are received by a Vermont retail electricity provider on and after May 1, 2012, pursuant to an agreement, contract, memorandum of understanding, or other transaction in which a person or entity agrees to transfer such revenues or rights associated with such attributes to the provider.

(b) After notice and opportunity for hearing, the board shall determine the disposition, allocation, and use of the revenues in a manner that promotes state energy policy as stated in section 202a of this title and the goals of this chapter and supports achievement of the greenhouse gas reduction and building efficiency goals contained in 10 V.S.A. §§ 578(a) and 581.

(1) The board shall provide notice of the proceeding to each Vermont retail electricity provider, the department of public service, the clean energy

development board under 10 V.S.A. § 6523, each fuel efficiency service provider appointed under subsection 203a(b) of this title, each energy efficiency entity appointed under subdivision 209(d)(2) of this title, the institute for energy and the environment at the Vermont Law School, the transportation research center at the University of Vermont, and any other persons or entities that have requested notice. The board may provide notice to additional persons or entities.

(2) In determining the disposition, allocation, and use of the revenues, the board shall consider each of the following potential uses of the revenues:

(A) Development of in-state renewable energy resources.

(B) Deposit into the clean energy development fund for use pursuant to 10 V.S.A. § 6523.

(C) Deposit into the fuel efficiency fund for use pursuant to 10 V.S.A. § 203a.

(D) Deposit into the electric efficiency fund for use pursuant to 10 V.S.A. § 209(d).

(E) Application, for the benefit of ratepayers, to the revenue requirement of one or more Vermont retail electricity providers.

(F) Development of transportation alternatives to vehicles that use gasoline such as electric or natural gas vehicles and supporting infrastructure

and the coordination of such development with so-called “smart grid” electric transmission and distribution networks.

(G) Any other uses that support the statutory policy and goals referenced in this subsection (b).

(c) A Vermont retail electricity provider shall notify the board within 30 days of the first receipt of the revenues pursuant to an agreement, contract, memorandum of understanding, or other transaction under which it will receive the revenues. The board will open a proceeding under this section promptly on receipt of such notice and shall issue a final order in the proceeding within 12 months of such receipt.

(d) Any of the revenues that are received prior to completion of the 12-month period described in subdivision (c) of this section shall be credited, for the benefit of ratepayers, against the revenue requirement of the Vermont retail electricity provider that receives the revenues.

* * * Medium Voltage Distribution Transformers;

Efficiency Standards * * *

Sec. 14. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY STANDARDS

Not later than June 1, 2007, the commissioner shall adopt rules in accordance with the provisions of ~~3 V.S.A.~~ chapter 25 of Title 3 establishing minimum efficiency standards for the types of new products set forth in section

2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this state:

(1) Medium voltage dry-type distribution transformers shall at a minimum meet ~~minimum~~ the efficiency levels ~~three tenths of a percentage point higher than the Class 1 efficiency levels for medium voltage distribution transformers specified in Table 4 2 of the “Guide for Determining Energy Efficiency for Distribution Transformers” published by the National Electrical Manufacturers Association (NEMA Standard TP 1 2002)~~ requirements set forth for such transformers in 10 C.F.R. § 431.196, as those requirements may be amended from time to time.

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* * * Stormwater Permitting; Wind Energy Plants * * *

Sec. 15. Sec. 43 of No. 54 of the Acts of 2009 is amended to read:

Sec. 43. ALTERNATIVE GUIDANCE FOR STORMWATER
PERMITTING; WIND FACILITIES

To facilitate responsible development of renewable energy projects in high-elevation settings, the Vermont department of environmental conservation shall consult with project developers and interested stakeholders and, ~~by January 15, 2010 or in the process currently under way to update the Vermont stormwater management manual, whichever occurs first, amend its rules or the stormwater management manual, pursuant to chapter 25 of Title 3,~~

~~to~~ no later than February 1, 2011, finally adopt and put into effect amended rules and revisions to the Vermont stormwater management manual that include alternative ~~guidance~~ requirements for operational-phase stormwater permitting of renewable energy projects located in high-elevation settings. Such alternative ~~guidance~~ requirements shall include ~~consideration of~~ measures that minimize the extent and footprint of stormwater-treatment practices so as to preserve vegetation and trees and limit disturbances; that ~~reflect~~ reduce the impact of such practices on the fragile ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and that reflect the temporary nature and infrequent use of construction and access roads to such projects.

* * * Consolidation of Environmental and Municipal Appeals for
Renewable Energy Plants with Public Service Board Review * * *

Sec. 16. 10 V.S.A. § 8501 is amended to read:

§ 8501. PURPOSE

It is the purpose of this chapter to:

(1) Consolidate existing appeal routes for municipal zoning and subdivision decisions and acts or decisions of the secretary of natural resources, district environmental coordinators, and district commissions, excluding enforcement actions brought pursuant to chapters 201 and 211 of this title and the adoption of rules under ~~3-V.S.A.~~ chapter 25 of Title 3.

(2) Standardize the appeal periods, the parties who may appeal these acts or decisions, and the ability to stay any act or decision upon appeal, taking into account the nature of the different programs affected.

(3) Encourage people to get involved in the Act 250 permitting process at the initial stages of review by a district commission by requiring participation as a prerequisite for an appeal of a district commission decision to the environmental court.

(4) Assure that clear appeal routes exist for acts and decisions of the secretary of natural resources.

(5) Consolidate appeals of decisions related to renewable energy generation plants with review by the public service board under 30 V.S.A. § 248.

Sec. 17. 10 V.S.A. § 8504 is amended to read:

§ 8504. APPEALS TO THE ENVIRONMENTAL COURT

(a) Act 250 and agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the secretary, a district coordinator, or a district commission under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the environmental court, except for an act or decision of the secretary governed by section 8506 of this title.

* * *

Sec. 18. 10 V.S.A. § 8506 is added to read:

§ 8506. RENEWABLE ENERGY PLANT; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the public service board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title.

(b) For the purpose of this section, “board,” “plant,” and “renewable energy” have the same meaning as under 30 V.S.A. § 8002.

(c) The provisions of subdivisions 8504(c)(2) (notice of appeal) and (f)(1)(A) (automatic stays of certain permits), (j) (appeals to discharge under a general permit), and (n) (intervention) of this title shall apply to appeals under this section.

(d) The public service board may consolidate or coordinate appeals under this section with each other and with proceedings under 30 V.S.A. § 248, where those appeals and proceedings all relate to the same project, unless such consolidation or coordination would be clearly unreasonable. This authority to

consolidate or coordinate appeals and proceedings shall not confer authority to alter the substantive standards at issue in an appeal or proceeding.

(e) In an appeal under this section, the public service board, applying the substantive standards that were applicable before the secretary, shall hold a de novo hearing on those issues which have been appealed. In such an appeal, the board shall give the same weight and consideration to prior decisions of the environmental court and of the entities described in section 8504(m) (precedent) of this title as the board gives to its prior decisions.

(f) 30 V.S.A. §§ 9 (court of record), 10 (service of process), 11 (pleadings; rules of practice; findings of fact), and 12 (review by supreme court) shall apply to appeals under this section.

* * * Natural Gas Vehicles * * *

Sec. 18a. 10 V.S.A. § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The fund also may be used to support natural gas

vehicles in accordance with subdivision (d)(1)(K) of this section. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

(1) Projects for funding may include, and in the case of subdivision (1)(E)(ii) of this subsection shall include continuous funding for as long as funds are available, the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the small-scale renewable energy incentive program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program; and

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow.

* * *

* * * Residential Building Energy Standards * * *

Sec. 18b. 21 V.S.A. § 266 is amended to read:

§ 266. RESIDENTIAL BUILDING ENERGY STANDARDS

(a) Definitions. For purposes of this subchapter, the following definitions apply:

(1) “Builder” means the general contractor or other person in charge of construction, who has the power to direct others with respect to the details to be observed in construction.

(2) “Residential buildings” means one family dwellings, two family dwellings, and multi-family housing three stories or less in height. “Residential buildings” shall not include hunting camps.

(3) “Residential construction” means new construction of residential buildings, and the construction of residential additions ~~that create 500 square feet of new floor space, or more. Before July 1, 1998, this definition shall only apply to residential construction that is subject to the jurisdiction of 10 V.S.A. chapter 151. Effective July 1, 1998, this definition shall apply to residential construction, regardless of whether or not it is subject to the jurisdiction of 10 V.S.A. chapter 151, alterations, renovations, or repairs to an existing residential building.~~

(4) “IECC” means the International Energy Conservation Code of the International Code Council.

(b) Adoption of Residential Building Energy Standards (RBES).
Residential construction ~~commencing on or after July 1, 1997~~ shall be in compliance with the standards ~~contained in the 1995 edition of the “Model Energy Code” (MEC) prepared by the Council of American Building Officials, as those standards have been amended by the general assembly in the act that~~

~~initially adopts the Model Energy Code~~ adopted by the commissioner of public service in accordance with subsection (c) of this section.

(c) Revision and interpretation of energy standards. The commissioner of public service shall amend and update the RBES, by means of administrative rules adopted in accordance with ~~3 V.S.A.~~ chapter 25 of Title 3. No later than January 1, 2011, the commissioner shall complete rulemaking to amend the energy standards to ensure that, to comply with the standards, residential construction must be designed and constructed in a manner that complies with the 2009 edition of the IECC. These amendments shall be effective on final adoption. After January 1, 2011, the commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for residential construction under the IECC. The department of public service shall provide technical assistance and expert advice to the commissioner in the interpretation of the RBES and in the formulation of specific proposals for amending the RBES. Prior to final adoption of each required revision of the RBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders, builders, building designers, utility representatives, and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner with additional recommendations for revision of the RBES.

* * *

(5) A home energy rating, ~~from~~ conducted at the time of construction by a Vermont-accredited home energy rating organization, that is determined to indicate energy performance equivalent to the RBES, shall be an acceptable means of demonstrating compliance if the rating indicates energy performance equivalent to the RBES.

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Sec. 18c. FEDERAL RESIDENTIAL RETROFIT ENERGY

LEGISLATION; ROLE OF EFFICIENCY UTILITY

The 111th Congress of the United States currently is considering H.R. 5019, the Home Energy Retrofit Act of 2010. With respect to any federal legislation pertaining to residential energy retrofits that is enacted during the 111th Congress, the governor, the public service board, the department of public service, any state agency that is authorized or eligible for authorization by the federal government to receive benefits or funding under such legislation, and any entity that is appointed pursuant to 30 V.S.A. § 209 promptly shall take those actions necessary to obtain the greatest possible benefit for the state from such legislation. To deliver services in the state pursuant to any such legislation, including implementation of quality assurance programs and coordination of financial service delivery, Vermont shall use the entities that are appointed under 30 V.S.A. § 209 and that deliver energy efficiency

services to electric, heating, or process-fuel customers, to the extent such use is not prohibited by such federal legislation.

Sec. 18d. 26 V.S.A. § 910(7) is added to read:

(7) Installation of solar electric modules and racking on complex structures to the point of connection to field-fabricated wiring and erection of net metered wind turbines.

Sec. 19. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 13 shall take effect on July 1, 2012.

Approved: June 4, 2010