

1 H.781

2 Introduced by Committee on Natural Resources and Energy

3 Date:

4 Subject: Renewable energy; public service; natural resources; permitting;

5 stormwater; appeals; net metering systems; military installations;

6 SPEED standard offer; agricultural methane

7 Statement of purpose: This bill proposes to allow renewable energy plants  
8 installed by the military department or National Guard to qualify for net  
9 metering if the plant capacity is 2.2 MW or less; to provide that agricultural  
10 methane or “cow power” electricity generation plants in existence as of  
11 September 30, 2009, shall be eligible for a standard offer under the public  
12 service board’s SPEED program; to require the public service board to apply  
13 existing simplified permit review and interconnection procedures for net  
14 metering systems of 150 kilowatts capacity or less to all renewable energy  
15 plants that are at or under that capacity; to require the public service board to  
16 develop simplified permit review and interconnection procedures for all  
17 renewable energy plants that range from 150 kilowatts through 2.2 megawatts  
18 in capacity; to extend the business solar tax credit for investments made for  
19 solar plants of 2.2 megawatts capacity or less that file complete petitions for  
20 certificates of public good on or before July 15, 2010; to provide that  
21 hydroelectric energy generation of any capacity is considered renewable  
22 energy; to conform the state’s minimum efficiency standard for medium

1 voltage distribution transformers to federal requirements; to provide that the  
2 Vermont department of environmental conservation shall finally adopt and put  
3 into effect by February 1, 2011, alternative stormwater measures for high  
4 elevation renewable energy projects; and to provide that appeals of  
5 environmental and municipal permits for a renewable energy plant shall be to  
6 the public service board instead of the environmental court, with the option to  
7 be consolidated with that board's review of the plant under 30 V.S.A. § 248.

8 An act relating to renewable energy

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

10 \* \* \* Net Metering; Military Installation \* \* \*

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

12 (m) A facility for the generation of electricity to be consumed primarily by  
13 the military department established under 3 V.S.A. § 212 and 20 V.S.A.  
14 § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed  
15 on property of the military department or National Guard located in Vermont,  
16 shall be considered a net metering system for purposes of this section if it has a  
17 capacity of 2.2 MW (AC) or less and meets the provisions of subdivisions  
18 (a)(3)(B) through (E) of this section. Such a facility shall not be subject to and  
19 shall not count toward the capacity limits of subdivisions (a)(3)(A) (no more  
20 than 250 kW) and (h)(1)(A) (two percent of peak demand) of this section.

1                                   \* \* \* Existing Farm Methane Plants \* \* \*

2       Sec. 2. FINDINGS

3           The general assembly finds that:

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

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

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

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

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

4           (6) In part because of the success demonstrated by these projects, in  
5           2009, the general assembly enacted amendments to section 30 V.S.A. § 8005  
6           to require the public service board to create and implement a “standard offer”  
7           program for contracts with new renewable energy plants with a plant capacity  
8           of 2.2 MW or less.

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

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

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

20                  (F) Notwithstanding any other provision of this section, on and after  
21          ~~July 1~~ June 8, 2010, a standard offer shall be available for a qualifying existing  
22          plant.

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

3                   (I) The plant was commissioned on or before September 30,  
4 2009.

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

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

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

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

21                   (iv) The price and term of a standard offer contract under this  
22 subdivision (2)(F) shall be the same, as of the date such a contract is executed,

1 as the price and term otherwise in effect under this subsection (b) for a plant  
2 that uses methane derived from an agricultural operation. However, the board  
3 by June 30 7, 2010, may set a different price for a standard offer contract under  
4 this subdivision (2)(F) if it determines that such a different price will result in  
5 an economic benefit to a qualifying existing plant that is equivalent to the  
6 benefit otherwise received under this subsection (b) by a standard offer plant  
7 that uses methane derived from an agricultural operation. In making such a  
8 determination, the board shall consider the qualifying existing plants as one  
9 separate category, apply the criteria of subdivisions (2)(B)(i)(I) and (II) of this  
10 subsection (b) to the qualifying existing plants, and consider other relevant  
11 economic circumstances of those plants, including any existing contract  
12 provisions related to tradeable renewable energy credits.

*\* \* \* 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.*

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

2           Sec. ~~4~~5. 30 V.S.A. § 8005(i) is amended to read:

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

8           Sec. ~~5~~6. 30 V.S.A. § 8007 is added to read:

9           § 8007. SMALL RENEWABLE ENERGY PLANTS; SIMPLIFIED

10                   PROCEDURES

11           (a) The same application form, rules, and procedures that the board applies  
12           to net metering systems of 150 kilowatts (kW) or less under sections 219a and  
13           248 of this title shall apply to the review under section 248 of this title of any  
14           renewable energy plant with a plant capacity of 150 kW or less and to the  
15           interconnection of such a plant with the system of a Vermont retail electricity  
16           provider. This requirement includes any waivers of criteria under section 248  
17           of this title made pursuant to section 219a of this title.

18           (b) With respect to renewable energy plants that have a plant capacity that  
19           is greater than 150 kW and is 2.2 MW or less, the board shall establish by rule  
20           or order standards and procedures governing application for, and issuance or  
21           revocation of, a certificate of public good for such a plant under the provisions

1 of section 248 of this title, and the interconnection of such a plant with the  
2 system of a Vermont retail electricity provider.

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

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

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

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

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

17 **Sec. 67. RULES; CONFORMANCE; ORDER; INITIAL ADOPTION**

18 (a) As of the effective date of this act, 30 V.S.A. § 8007(a) shall supersede  
19 any contrary provisions of the rules of the public service board. No later than  
20 December 31, 2010, the board shall conform its rules to the requirements of  
21 30 V.S.A. § 8007(a).



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

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

9        Sec. ~~7~~8. 30 V.S.A. § 8005(k) is amended to read:

10        (k) A Vermont retail electricity provider shall not be eligible for a standard  
11        offer contract under subdivision (b)(2) of this section. However, under  
12        subdivision (g)(1) of this section, a plant owner may transfer to such a provider  
13        all rights associated with a standard offer contract that has been offered to the  
14        plant without affecting the plant's status under the standard offer program. In  
15        the case of such a transfer of rights, the plant shall not be considered a  
16        utility-owned and -operated plant under subdivisions (b)(2) and (g)(2) of this  
17        section.

\* \* \* Extension of Solar Tax Credit, Solar Energy Plants

of 2.2 MW or Less \* \* \*

Sec. 8. REPEAL

Secs. 9b, 9c, 9d, and 16(2) (prospective repeals of the individual and corporate business solar energy tax credits; transition rules) of No. 45 of the Acts of 2009 are repealed.

Sec. 9 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

1 ~~will only apply to project costs not covered by any grants or similar funding~~  
2 ~~from any public or private program that assists in providing capital investment~~  
3 ~~for a renewable energy project. The tax credit under this subdivision shall not~~  
4 ~~apply to investments made after July 15, 2010, unless the investments meet the~~  
5 ~~provisions of either subdivision (A) or (B) of this subdivision.~~

6 ~~(A) The tax credit under this subdivision (2) shall apply to~~  
7 ~~investments made after July 15, 2010, if all of the following apply:~~

8 ~~(i) The investments pertain to a solar energy plant that has a plant~~  
9 ~~capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less.~~

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

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

16 ~~(B) The tax credit under this subdivision (2) shall apply to~~  
17 ~~investments made after July 15, 2010, if they were made on or before~~  
18 ~~December 31, 2010, and pertain to a net metering system as defined in~~  
19 ~~30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150~~  
20 ~~kilowatts (AC) capacity.~~

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

4 Sec. 10. 30 V.S.A. § 5930z(a) is amended to read:

5 (a) A taxpayer of this state shall be eligible for a credit against the tax  
6 imposed under section 5832 of this title in an amount equal to 100 percent of  
7 the Vermont-property portion of the business solar energy investment tax  
8 credit component of the federal investment tax credit allowed against the  
9 taxpayer's federal income tax for the taxable year under Section 48 of the  
10 Internal Revenue Code; provided, however, that a taxpayer who receives any  
11 grants or similar funding from the clean energy development fund created  
12 under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax  
13 credit for that project; and provided further, that for investments made on or  
14 after October 1, 2009, the tax credit will only apply to project costs not  
15 covered by any grants or similar funding from any public or private program  
16 that assists in providing capital investment for a renewable energy project.

17 The tax credit under this subsection shall not apply to investments made after  
18 July 15, 2010, unless the investments meet the provisions of either subdivision  
19 (1) or (2) of this subsection.

20 (1) The tax credit under this subsection shall apply to investments made  
21 after July 15, 2010, if all of the following apply:

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

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

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

9 (2) The tax credit under this subsection shall apply to investments made  
10 after July 15, 2010, if they were made on or before December 31, 2010, and  
11 pertain to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided  
12 that the system is of no more than 150 kilowatts (AC) capacity.

13 Sec. 11. RENEWABLE ENERGY PROPERTY TAX STUDY COMMITTEE

14 (a) There is created the renewable energy property tax study committee to  
15 identify and examine issues regarding the taxation of real property that  
16 includes a renewable energy plant.

17 (b) The members of the study committee shall be:

18 (1) The director of property valuation and review, who shall serve as the  
19 chair of the committee and shall call the first meeting of the committee on or  
20 before August 1, 2010;

21 (3) A representative of the Vermont League of Cities and Towns,  
22 appointed by its board of directors;

1 (4) A representative of the Vermont Assessors and Listers Association,  
2 appointed by its board of directors;

3 (5) A representative of Renewable Energy Vermont, appointed by its  
4 board of directors.

5 (c) No later than January 15, 2011, the committee shall report its findings  
6 and analysis to the house committees on ways and means, on commerce and  
7 economic development, and on natural resources and energy, and the senate  
8 committees on finance, on economic development, housing, and general  
9 affairs, and on natural resources and energy. The report shall include specific  
10 recommendations with respect to the following:

11 (1) Whether energy plants using different renewable resources should be  
12 subject to different rates of tax, and if so, what those rates should be.

13 (2) Whether renewable energy plants that are on leased land should be  
14 taxed differently from renewable energy plants that are on land owned by the  
15 plant owner.

16 (3) Whether renewable energy plants installed on residential property  
17 should be exempt from taxation.

18 (4) Any other criteria that the director and listers should consider when  
19 assessing the fair market value of land that includes a renewable energy plant.

20 (d) Members of the committee who are not state employees shall be  
21 entitled to compensation as provided under 32 V.S.A. § 1010.

1 ~~(e) For the purpose of this section, the terms “plant” and “renewable~~  
2 ~~energy” shall have the same meaning as under 30 V.S.A. § 8002.~~

*Sec. ~~8~~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. ~~9~~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. ~~10~~ 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~~ sections 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 fund 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. 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 fund on a form prescribed by the fund 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 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 July 15, 2010, the taxpayer has provided to the clean energy development fund on a form prescribed by the fund information necessary for the fund to determine the taxpayer's eligibility for the credit.

(d) The final award of any solar energy tax credit 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 fund and the department shall collaborate in implementing the award of credits under this section.

**Sec. ~~11~~ 12. RENEWABLE ENERGY PROPERTY TAX STUDY COMMITTEE**

(a) There is created the renewable energy property tax study committee to identify and examine issues regarding the taxation of real property that includes a renewable energy plant.

(b) The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before August 1, 2010;

(2) The commissioner of the department of public service or designee;

(3) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;

(4) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;

(5) A representative of Renewable Energy Vermont, appointed by its board of directors;

(6) The secretary of the agency of agriculture, food and markets or designee.

(c) No later than January 15, 2011, the committee shall report its findings and analysis to the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the senate committees on finance, on economic development, housing, and general affairs, and on natural resources and energy. The report shall include specific recommendations with respect to the following:

(1) Whether the current method of property taxation of renewable energy plants adequately apportions the tax burden and, if not, whether energy plants using different renewable resources should be subject to different rates of tax and how those rates should be determined.

(2) Whether renewable energy plants that are on leased land should be taxed differently from renewable energy plants that are on land owned by the plant owner.

(3) Whether renewable energy plants installed on residential property should be exempt from taxation.

(4) If there are adverse impacts on neighboring municipalities that do not directly benefit by virtue of having the renewable energy plant on their grand list, whether those impacts are fairly addressed.

(5) Whether renewable energy plants installed on land enrolled in the use value appraisal program or affixed to exempt farm buildings should be subject to property taxation and, if so, how the rates should be determined.

(6) Any other criteria that the director and listers should consider when assessing the fair market value of land that includes a renewable energy plant.

(d) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010.

(e) For the purpose of this section, the terms "plant" and "renewable energy" shall have the same meaning as under 30 V.S.A. § 8002.

1                     \*\*\* Definition of Renewable Energy; Hydroelectric \*\*\*

2             Sec. ~~12~~ 13. 30 V.S.A. § 8002 is amended to read:

3             § 8002. DEFINITIONS

4             For purposes of this chapter:

5   \*\*\*

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

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

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

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

18           (D) After conducting administrative proceedings, the board may add  
19 technologies or technology categories to the definition of “renewable energy,”  
20 provided that technologies using the following fuels shall not be considered  
21 renewable energy supplies: coal, oil, propane, and natural gas.

22   \* \* \*

1                                   \* \* \* Medium Voltage Distribution Transformers;  
2   Efficiency Standards \* \* \*

3       Sec. ~~13~~ 14. 9 V.S.A. § 2795 is amended to read:

4       § 2795. EFFICIENCY STANDARDS

5           Not later than June 1, 2007, the commissioner shall adopt rules in  
6       accordance with the provisions of ~~3 V.S.A.~~ chapter 25 of Title 3 establishing  
7       minimum efficiency standards for the types of new products set forth in section  
8       2794 of this title. The rules shall provide for the following minimum  
9       efficiency standards for products sold or installed in this state:

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

18   \* \* \*

1                   \* \* \* Stormwater Permitting; Wind Energy Plants \* \* \*

2           Sec. ~~14~~ 15. Sec. 43 of No. 54 of the Acts of 2009 is amended to read:

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

5           To facilitate responsible development of renewable energy projects in  
6           high-elevation settings, the Vermont department of environmental  
7           conservation shall consult with project developers and interested stakeholders  
8           and, ~~by January 15, 2010 or in the process currently under way to update the~~  
9           ~~Vermont stormwater management manual, whichever occurs first, amend its~~  
10          ~~rules or the stormwater management manual, pursuant to chapter 25 of Title 3,~~  
11          ~~to~~ no later than February 1, 2011, finally adopt and put into effect amended  
12          rules and revisions to the Vermont stormwater management manual that  
13          include alternative ~~guidance~~ requirements for operational-phase stormwater  
14          permitting of renewable energy projects located in high-elevation settings.  
15          Such alternative ~~guidance~~ requirements shall include ~~consideration of~~  
16          measures that minimize the extent and footprint of stormwater-treatment  
17          practices so as to preserve vegetation and trees and limit disturbances; that  
18          ~~reflect~~ reduce the impact of such practices on the fragile ecosystems, shallow  
19          soils, and sensitive streams found in high-elevation settings; and that reflect the  
20          temporary nature and infrequent use of construction and access roads to such  
21          projects.

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

3           Sec. ~~15~~ 16. 10 V.S.A. § 8501 is amended to read:

4           § 8501. PURPOSE

5           It is the purpose of this chapter to:

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

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

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

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

20          (5) Consolidate appeals of decisions related to renewable energy  
21          generation plants with review by the public service board under 30 V.S.A.  
22          § 248.

1 Sec. ~~16~~ 17. 10 V.S.A. § 8504 is amended to read:

2 § 8504. APPEALS TO THE ENVIRONMENTAL COURT

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

9 \* \* \*

10 Sec. ~~17~~ 18. 10 V.S.A. § 8506 is added to read:

11 § 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.*

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

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

5        (d) The public service board may consolidate or coordinate appeals under  
6        this section with each other and with proceedings under 30 V.S.A. § 248,  
7        where those appeals and proceedings all relate to the same project, unless such  
8        consolidation or coordination would be clearly unreasonable. This authority to  
9        consolidate or coordinate appeals and proceedings shall not confer authority to  
10       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.*

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

14       ~~Sec. 18. 30 V.S.A. § 223 is amended to read:~~

15       ~~§ 223. APPEAL FROM MUNICIPAL AUTHORITIES~~



1 ~~A person or corporation aggrieved by an order or decision of the municipal~~  
2 ~~authorities made under the provisions of any statute, relative to the granting of~~  
3 ~~a license or permit for location or to activity associated with a renewable~~  
4 ~~energy plant for which a certificate of public good is required under section~~  
5 ~~248 of this title, may appeal therefrom to the public service board at any time~~  
6 ~~within 30 days from the date of such order or decision. The right of appeal~~  
7 ~~established under this section shall be exclusive for orders or decisions to~~  
8 ~~which it applies. Included in the right of appeal established under this section~~  
9 ~~is an act or decision of a municipal authority under 19 V.S.A. § 1111~~  
10 ~~(permitted use of the right-of-way), 23 V.S.A. § 1400a (local highway and~~  
11 ~~bridge overweight permits), and ordinances and rules adopted under chapter 59~~  
12 ~~of Title 24, if the act or decision pertains to a renewable energy plant for which~~  
13 ~~a certificate of public good is required under section 248 of this title. In an~~  
14 ~~appeal under this section, the board shall hold a de novo hearing, applying the~~  
15 ~~substantive standards that were applicable before the municipal authority from~~  
16 ~~which the appeal is taken. After notice and public hearing of all parties~~  
17 ~~interested, as provided in section 208 of this title, the decision of the board~~  
18 ~~thereon shall be final, subject to a right to transfer such cause to the supreme~~  
19 ~~court as provided by section 12 of this title. In the case of a renewable energy~~  
20 ~~plant for which a certificate of public good is required under section 248 of this~~  
21 ~~title, the board may consolidate or coordinate appeals under this section with~~  
22 ~~each other and with proceedings under section 248, where those appeals and~~

1 ~~proceedings all relate to the same project, unless such consolidation or~~  
2 ~~coordination would be clearly unreasonable. This authority to consolidate or~~  
3 ~~coordinate appeals and proceedings shall not confer authority to alter the~~  
4 ~~substantive standards at issue in an appeal or proceeding. For the purpose of~~  
5 ~~this section, "plant" and "renewable energy" have the same meaning as under~~  
6 ~~section 8002 of this title.~~

7 Sec. 19. EFFECTIVE DATE

8 This act shall take effect on passage, except that ~~Sec. 12~~ Sec. 13 shall take  
9 effect on July 1, 2012.