



## States' Biofuels Statutes

### STATE OF VERMONT

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).*

*Current through the 2014 Legislative Session of the Vermont State Legislature.*

#### **§ 8015. Vermont Clean Energy Development Fund**

(a) Creation of Fund.

(1) There is established the Vermont Clean Energy Development Fund to consist of each of the following:

(A) The proceeds due the State under the terms of the memorandum of understanding between the Department of Public Service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under Public Service Board docket 6812; together with the proceeds due the State under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the Department of Public Service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.

(B) Any other monies that may be appropriated to or deposited into the Fund.

(2) Balances in the Fund shall be expended solely for the purposes set forth in this subchapter and shall not be used for the general obligations of government. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited in the Fund. This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) Definitions. For purposes of this section, the following definitions shall apply:

(1) "Clean energy resources" means electric power supply and demand-side resources, or thermal energy or geothermal resources, that are "combined heat and power facilities," "cost-effective energy efficiency resources," or "renewable energy" resources.

(2) "Combined heat and power (CHP) facility" means a generator that sequentially produces both electric power and thermal energy from a single source or fuel. In order for a fossil fuel-based CHP system to participate in the clean energy program set out in this section, at least 20 percent of its fuel's total recovered energy must be thermal and at least 13 percent must be electric, the design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) must be at least 65 percent, and it must meet air quality standards established by the Agency of Natural Resources.

(3) “Cost-effective energy efficiency” means those energy efficiency and conservation measures that would qualify as part of a utility’s least-cost integrated plan under section 218c of this title or that would be an eligible expenditure under section 209(d) of this title.

(4) “Emerging energy-efficient technologies” means technologies that are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) “Renewable energy” has the meaning established under subdivision 8002(17) of this title, and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(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 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 and electric vehicles in accordance with subdivisions (d)(1)(K) and (L) of this section, respectively. 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 this title 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 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;

(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;

(L) electric vehicles and associated charging stations.

(2) If during a particular year, the Commissioner of Public Service determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the Commissioner shall consult with the Clean Energy Development Board, and shall consider transferring funds to the Energy Efficiency Fund established under the provisions of subsection 209(d) of this title. Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

(3) A grant in lieu of a solar energy tax credit in accordance with 32 V.S.A. § 5930z(f). Of any Fund monies unencumbered by such grants, the first \$2.3 million shall fund the Small-scale Renewable Energy Incentive Program described in subdivision (1)(E)(ii) of this subsection.

(4) A sum equal to the cost for the 2010 and preceding tax years of the business solar energy income tax credits authorized in 32 V.S.A. §§ 5822(d) and 5930z(a), net of any such costs for which a transfer has already been made under this subdivision and of the cost of any credits in lieu of which the taxpayer elects to receive a grant, shall be transferred from the Clean Energy Development Fund to the General Fund.

(e) Management of Fund.

(1) This Fund shall be administered by the Department of Public Service to facilitate the development and implementation of clean energy resources. The Department is authorized to expend monies from the Clean Energy Development Fund in accordance with this section. The Commissioner of the Department shall make all decisions necessary to implement this section and administer the Fund except those decisions committed to the Clean Energy Development Board under this subsection. The

Department shall ensure an open public process in the administration of the Fund for the purposes established in this subchapter.

(2) During fiscal years after FY 2006, up to five percent of amounts appropriated to the Public Service Department from the Fund may be used for administrative costs related to the Clean Energy Development Fund.

(3) There is created the Clean Energy Development Board, which shall consist of seven persons appointed in accordance with subdivision (4) of this subsection.

(A) The Clean Energy Development Board shall have decision-making and approval authority with respect to the plans, budget, and program designs described in subdivisions (7)(B)-(D) of this subsection. The Clean Energy Development Board shall function in an advisory capacity to the Commissioner on all other aspects of this section's implementation.

(B) During a Board member's term and for a period of one year after the member leaves the Board, the Clean Energy Development Fund shall not make any award of funds to and shall confer no financial benefit on a company or corporation of which the member is an employee, officer, partner, proprietor, or Board member or of which the member owns more than 10 percent of the outstanding voting securities. This prohibition shall not apply to a financial benefit that is available to any person and is not awarded on a competitive basis or offered only to a limited number of persons.

(4) The Commissioner of Public Service shall appoint three members of the Clean Energy Development Board, and the chairs of the House and Senate Committees on Natural Resources and Energy each shall appoint two members of the Clean Energy Development Board. The terms of the members of the Clean Energy Development Board shall be four years, except that when appointments to this Board are made for the first time after the effective date of this act, each appointing authority shall appoint one member for a two-year term and the remaining members for four-year terms. When a vacancy occurs in the Board during the term of a member, the authority who appointed that member shall appoint a new member for the balance of the departing member's term.

(5) Except for those members of the Clean Energy Development Board otherwise regularly employed by the State, the compensation of the members shall be the same as that provided by 32 V.S.A. § 1010(a).

(6) In performing its duties, the Clean Energy Development Board may utilize the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Clean Energy Development Board with administrative services.

(7) The Department shall perform each of the following:

(A) By January 15 of each year, provide to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the House Committee on Commerce and Economic Development a report for the fiscal year ending the preceding June 30 detailing the activities undertaken, the revenues collected, and the expenditures made under this subchapter. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.

(B) Develop, and submit to the Clean Energy Development Board for review and approval, a five-year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process and shall be consistent with State energy planning principles.

(C) Develop, and submit to the Clean Energy Development Board for review and approval, an annual operating budget.

(D) Develop, and submit to the Clean Energy Development Board for review and approval, proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies). Prior to any approval of a new program or of a substantial modification to a previously approved program of the Clean Energy Development Fund, the Department of Public Service shall publish online the proposed program or modification, shall provide an opportunity for public comment of no less than 30 days, and shall provide to the Clean Energy Development Board copies of all comments received on the proposed program or modification. In this subdivision (D), “substantial modification” shall include a change to a program’s application criteria or application deadlines and shall include any change to a program if advance knowledge of the change could unfairly benefit one applicant over another applicant. For the purpose of 3 V.S.A. § 831(c) (initiating rulemaking on request), a new program or substantial modification of a previously approved program shall be treated as if it were an existing practice or procedure.

(8) At least annually, the Clean Energy Development Board and the Commissioner or designee jointly shall hold a public meeting to review and discuss the status of the Fund, Fund projects, the performance of the Fund Manager, any reports, information, or inquiries submitted by the Fund Manager or the public, and any additional matters they deem necessary to fulfill their obligations under this section.

(f) Clean Energy Development Fund Manager. The Clean Energy Development Fund shall have a Fund Manager who shall be an employee of the Department of Public Service.

(g) Bonds. The Commissioner of Public Service, in consultation with the Clean Energy Development Board, may explore use of the Fund to establish one or more loan-loss reserve funds to back issuance of bonds by the State Treasurer otherwise authorized by law, including Clean Renewable Energy Bonds, that support the purposes of the Fund.

(h) ARRA funds. All American Recovery and Reinvestment Act (ARRA) funds described in section 8016 of this title shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds and is consistent with all applicable requirements of ARRA, including requirements for administration of funds received and for timeliness, energy savings, matching, transparency, and accountability. These funds shall be expended for the following categories listed in this subsection, provided that no single project directly or indirectly receives a grant in more than one of these categories. After consultation with the Clean Energy Development Board, the Commissioner of Public Service shall have discretion to use non-ARRA monies within the fund to support all or a portion of these categories and shall direct any ARRA monies for which non-ARRA monies have been substituted to the support of other eligible projects, programs, or activities under ARRA and this section.

(1) The Vermont Small-scale Renewable Energy Incentive Program currently administered by the Renewable Energy Resource Center, for use in residential and business installations. These funds may be used by the Program for all forms of renewable energy as defined by subdivision 8002(2) of this title, including biomass and geothermal heating. The disbursement to this Program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) \$2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. In this subsection, “public-serving institution” means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process.

(5) \$2 million to the Vermont Housing and Conservation Board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) \$2 million to the Vermont Telecommunications Authority (VTA) to make grants of no more than \$10,000 per turbine for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) \$880,000.00 to the 11 regional planning commissions (\$80,000.00 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(8) Concerning the funds authorized for use in subdivisions (4)-(7) of this subsection:

(A) To the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(B) In the event that the Commissioner of Public Service determines that a recipient of such funds has insufficient eligible projects, programs, or activities to fully utilize the authorized funds, then after consultation with the Clean Energy Development Board, the Commissioner shall have discretion to reallocate the balance to other eligible projects, programs, or activities under this section.

(9) The Commissioner of Public Service is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. The Commissioner shall allocate a portion of the amount utilized for administration to retain permanent, temporary, or limited service positions or contractors and the remaining portion to the oversight of specific projects receiving ARRA funding pursuant to section 6524 of this title.

(i) Rules. The Department and the Clean Energy Development Board each may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out its functions under this section and shall consult with each other either before or during the rulemaking process.

**Credits** 2005, No. 74, § 2; 2005, Adj. Sess., No. 208, § 5; 2005, Adj. Sess., No. 215, § 280; 2007, No. 65, § 94a, eff. July 1, 2007; 2007, Adj. Sess., No. 92, § 7, eff. July 1, 2008; 2009, No. 45, § 5, eff. May 27, 2009; 2009, No. 54, § 93, eff. June 1, 2009; 2009, Sp. Sess., No. 1, § E.235.3, eff. July 1, 2009; 2009, Sp. Sess., No. 2, § 4, eff. June 1, 2009; 2009, Sp. Sess., No. 3, § 13, eff. June 10, 2009; 2009, Adj. Sess., No. 67, §§ 68, 103, eff. Feb. 25, 2010; 2009, Adj. Sess., No. 159, § 18a, eff. June 4, 2010; 2011, No. 47, § 20j, eff. May 25, 2011 and July 9, 2011; 2011, No. 47, § 20m(a), eff. July 1, 2011; 2013, No. 89, § 15, eff. July 1, 2013; 2013, Adj. Sess., No. 95, § 82a, eff. Feb. 25, 2014; 2013, Adj. Sess., No. 142, § 53, eff. July 1, 2014.