

Solar PBR Regulatory Advisory Group (RAP)

December 5, 2019

Draft Meeting Notes

Location: DEQ Piedmont Regional Office
Training Room
DEQ, 4949-A Cox Road, Richmond, VA

Start: 9:35 a.m.

Break: 10:30 a.m.-10:45 a.m.

Lunch Break: 12:00 p.m.

Reconvene 1:00 p.m.

Break: 2:50 p.m.-3:15 p.m.

End: 3:50 p.m.

RAP Members Present:

Jon Hillis; SolUnesco
David Krupp; Community Energy
Richard Gangle; Dominion Energy
William Reisinger; (Maryland-DC-Delaware-Virginia Solar Energy Industries Ass. MDV-SEIA)
Dan Holmes; Piedmont Environmental Council
Judy Dunscomb; The Nature Conservancy
Joe Lerch, Virginia Association of Counties (VACo)
Ken Jurman; Virginia Department of Mines, Minerals and Energy

Cliona Mary Robb, Virginia Solar Energy Development and Energy Storage Authority
Roger W. Kirchen; Virginia Department of Historic Resources (DHR)
S. René Hypes; Virginia Department of Conservation and Recreation (DCR)
Terrance Lasher; Virginia Department of Forestry (DoF)
Ernie Aschenbach; Virginia Department of Game & Inland Fisheries(DGIF)
Don Giecek for Harry Godfrey; Advanced Energy Economy

RAP Members Absent:

Hannah Coman; Southern Environmental Law Center

Deputy Sect. Natural Resources: Honorable Joshua Saks

Facilitator: Trieste Lockwood, DEQ, Tamera Thompson, DEQ

Recorders: Jill Hrynciw and Mary E. Major, DEQ

Guests and Public Attendees:

Chris Egghart
Chris Hawk
Jonah Fogel
Julia Campus
Lindsey Hesch
Sharon Baxter
Jonah Fogel
Susan Tripp
Ray Fernald
Brandon Searcey
Jenny Bellville-Marrow
Elizabeth Marshall
Jason Bulluck

Todd Alonzo
Keri Nicholas
Jenn D'Augustine
Adam Gillenwater
Mark Coombs
Tom Simth
Patrick Cushihg
Aimee Turner
Mathew Meares
Carrie Hearne
Donna Wirick
Chris Egghart

1. Welcome and Introductions:

Trieste Lockwood, (DEQ), provided the framework for the day based on the Agenda (attachment 1) which included a fee discussion for the first hour and review of draft regulatory language for the rest of the day. RAP membership made introductions as well as the public attendees.

2. Permit Fees:

Chris Moore began the fee discussion. He indicated the cost of the program is approximately \$1 million per year; last year the program revenues were approximately \$128,000.00. He also mentioned an additional \$149,000.00 that was in the budget in 2009 as seed money for the program when the legislation was first passed and appears to be an annual allocation.

Mr. Moore presented a chart of projected fee revenues based upon estimates of proposed projects provided by Mr. Jon Hillis (SolUnesco) for the next several years (attachment 2). Numbers are generated using a base fee of \$7,500.00 with an additional \$125.00 per MW which was proposed by the industry. For a 20 MW project, the cost of the PBR would be \$10,500.00: \$7,500.00 base fee + \$3,000 (\$150.00 x 20). This will still result in a program revenue deficit.

Mr. Moore presented additional projections (attachment 3) using the same PBR base fee but utilizing \$300.00 per MW for projects over 20 MW. This approach would provide a savings for smaller projects 20MW and smaller as requested.

The group discussed maintenance fee with some members requesting a grandfathering of projects that are already permitted arguing that it would be a breach of contract and unlawful given the PBRs were issued under a specific set of rules at the time. Examples were presented by staff – specifically the Title V maintenance fee- illustrating that there have been situations where fees were applied to existing sources. Requests were made for other funding options - no other options were presented. Mr. Moore then offered the option of grandfathering existing permitted projects but increasing the maintenance fee for newly permitted projects for \$10.00 to \$15.00 per MW.

Break 10:30 a.m.-10:45 a.m.

3. Deputy Secretary of Natural Resources:

Joshua Saks, Deputy Secretary of Natural Resources, addressed the RAP and led the discussion on 3 key points:

- Requiring a DHR pre-review prior to application submittal to help expedite the application review;
- Expanding the definition of threatened and endangered (T&E) species to include plants and insects to ensure protection for all T&E species and maintain healthy eco-systems; and
- Requiring, at a minimum, completion of the pollinator scorecard and making scores available to the public and, perhaps, requiring a minimum score explaining that the VIRGINIA POLLINATOR PROTECTION STRATEGY is a key issue for the administration and the First Lady of Virginia.

The group discussed possibility of evaluating impacts with a cost-benefit analysis, but at this time, industry does not support a requirement for meeting a minimum score as a regulatory requirement.

Break for lunch at 12:00 noon

Reconvened at 1:15 p.m.

4. Discussion on Draft Regulation, (attachment 4):

Trieste Lockwood led the group in a discussion of the remaining issues to be discussed including:

- DHR pre-review language
- NOI requirements
- What triggers an incomplete determination?
- Monitoring for DGIF studies

- Definition of significant impact
- Pollinator Score-card
- Site vs disturbance zone
- Forestry eco cores
- 9VAC15-60 and Section 65
- Public Review
- Fees and FTE funding

NOIs should be submitted no less than 3 months from the start of the public comment period with a requirement for notification to the local government.

Removal of forest lands results in a change in land use in perpetuity due to the significant cost of installing interconnection and infrastructure, therefore, impacts to forest lands needs to be assessed and managed keeping in mind private property rights. Any required mitigation for forestry core impacts was considered a “non-starter” for industry.

Break 2:50 p.m.-3:15 p.m.

The group continued the discussion regarding the DHR review process and expected review times after submission of materials. The request by industry to have 20 MW projects streamlined by avoiding a cultural resource review was not accepted as a viable option due to the high number (over half) of permitted projects 20 MW and under currently having mitigation requirements.

Though the group will not reconvene; however, comments will be accepted on the next draft regulation that will be forwarded to the RAP.

End: 3:50 p.m.

Solar Permit by Rule Work Group

December 5, 2019, 9:30 a.m.

Virginia Department of Environmental Quality

Piedmont Regional Office

4949-A Cox Road

Glen Allen, VA 23060

Draft Agenda

9:30 a.m.	Welcome
9:45 a.m.	Continuation of permit and associated fee discussion
10:45 a.m.	Continuation of discussion on proposed regulations
12:30 p.m.	Break for lunch (not included)
1:30 p.m.	Wrap-up of proposed regulations discussion
4:00 p.m.	Adjourn

Jon Hillis' spreadsheet

Fees	Amount	MW	App Fee	Mnt Fee/Yr	Old Fee	NPV of Mnt Fee	X incr w/PV of Mnt Fee
Application							
Lump sum per project	\$ 7,500	5	8,250	550	8,000	6,192	1.81
\$/MW	\$ 150	10	9,000	600	8,000	6,755	1.97
Modification		20	10,500	700	8,000	7,880	2.30
% of application fee	15%	50	15,000	1,000	10,000	11,258	2.63
Incomplete		75	18,750	1,250	12,000	14,072	2.74
% of application fee	30%	100	22,500	1,500	14,000	16,887	2.81
Notice of Intent		150	30,000	2,000	14,000	22,516	3.75
Lump sum per project	\$ 2,000						
Maintenance							
Lump sum per project	500						
\$/MW/year	\$ 10						

Calendar Year	2019	2020	2021	2022	2023	2024	2025
Project Success % (PJM only)	60%	40%	35%	30%	30%	30%	30%
Distribution level not in PJM queue							
Projects	3	10	10	10	10	10	10
MWs (X 15 MW per project average)	45	150	150	150	150	150	150
PJM queue projects							
Projects	12	62	62	37	-	-	-
MWs	1,031	5,408	7,185	2,777	-	-	-
Projects to add to queue per trends							
Projects	-	-	-	25	50	50	50
MWs	-	-	-	4,000	5,000	5,000	5,000
Totals							
Total projects	15	72	72	72	60	60	60
Total MWs	1,076	5,558	7,335	6,927	5,150	5,150	5,150
Adjusted for success %							
Total projects	9	29	25	22	18	18	18
Total MWs	646	2,223	2,567	2,078	1,545	1,545	1,545
Total application fees	164,340	549,480	574,088	473,715	366,750	366,750	366,750
Other fees							
Modification fees	8,217	8,586	10,252	9,869	9,169	9,169	9,169
Incomplete fees	16,434	17,171	20,503	19,738	18,338	18,338	18,338
Notice of Intent fees	18,000	57,600	50,400	43,200	36,000	36,000	36,000
Maintenance fees	-	36,632	74,905	106,486	130,936	155,386	179,836
Total Revenue	206,991	669,469	730,147	653,008	561,192	585,642	610,092
Expenditure Projection			1,011,755	1,031,990	1,052,630	1,073,682	1,095,156

411
36,346 88

Deficit by Year (281,608) (378,982) (491,438) (488,040) (485,064) (2,125,133)

59.6%

3,140,080

5,265,213

Jon Hillis' spreadsheet, then added old funding, changed \$/MW for projects over 20 MW, changed maintenance fees

Fees	Amount	MW	App Fee	Mnt Fee/Yr	Old Fee	X incr w/PV of	
						NPV of Mnt Fee	Mnt Fee
Application							
Lump sum per project	\$ 7,500	5	8,250	550	8,000	6,192	1.81
\$/MW for projects over 20 MW	\$ 300	10	9,000	600	8,000	6,755	1.97
Modification							
		20	10,500	700	8,000	7,880	2.30
% of application fee	15%	50	22,500	1,000	10,000	11,258	3.38
Incomplete							
		75	30,000	1,250	12,000	14,072	3.67
% of application fee	30%	100	37,500	1,500	14,000	16,887	3.88
Notice of Intent							
Lump sum per project	\$ 2,000	150	52,500	2,000	14,000	22,516	5.36
Maintenance							
Lump sum per project	500						
\$/MW/year	\$ 10						

Calendar Year	2019	2020	2021	2022	2023	2024	2025
Project Success % (PJM only)	60%	40%	35%	30%	30%	30%	30%
Distribution level not in PJM queue							
Projects	3	10	10	10	10	10	10
MWs (X 15 MW per project average)	45	150	150	150	150	150	150
PJM queue projects							
Projects	12	62	62	37	-	-	-
MWs	1,031	5,408	7,185	2,777	-	-	-
Projects to add to queue per trends							
Projects	-	-	-	25	50	50	50
MWs	-	-	-	4,000	5,000	5,000	5,000
Totals							
Total projects	15	72	72	72	60	60	60
Total MWs	1,076	5,558	7,335	6,927	5,150	5,150	5,150
Adjusted for success %							
Total projects	9	29	25	22	18	18	18
Total MWs	646	2,223	2,567	2,078	1,545	1,545	1,545
Total application fees	241,812	816,264	882,158	723,087	552,150	552,150	552,150
Other fees							
Modification fees	12,091	12,754	15,753	15,064	13,804	13,804	13,804
Incomplete fees	24,181	25,508	31,506	30,129	27,608	27,608	27,608
Notice of Intent fees	18,000	57,600	50,400	43,200	36,000	36,000	36,000
Maintenance fees	49,266	85,898	124,171	155,752	180,202	204,652	229,102

Assumed 20% of projects would be at 20 MW or less
Used RAP rates for projects 20 MW or less

	2019	2020	2021	2022	2023	2024	2025	5 Year Total
Total Revenue Projection	345,350	998,024	1,103,986	967,231	809,763	834,213	858,663	4,573,856
Expenditure Projection			1,011,755	1,031,990	1,052,630	1,073,682	1,095,156	5,265,213
Projected Revenues minus Projected Expenditures			92,231	(64,759)	(242,867)	(239,469)	(236,493)	(691,357)
Reduction due to old carryover funding for the program			(149,390)	(149,390)	(149,390)	(149,390)	(149,390)	(746,950)
Variance By Year -- Negative Numbers are Deficits			241,621	84,631	(93,477)	(90,079)	(87,103)	55,593

From 2009 and 2011 GA Sessions

9VAC15-60-10. Definitions.

Part I

Definitions and Applicability

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means the developer, owner or operator who submits an application to the department for a permit by rule pursuant to this chapter. Applicant does not mean any consultant that might be involved in developing the application documents.

"Archive search" means a search of DHR's cultural resource inventory for the presence of previously recorded archaeological sites and for architectural structures and districts.

"Begin commercial operation" means to have begun to generate electricity for sale, excluding the sale of test generation.

"Begin construction" means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction after receipt of any local permits.

"Coastal Avian Protection Zones" or "CAPZ" means the areas designated on the map of "Coastal Avian Protection Zones" generated on the department's Coastal GEMS geospatial data system ([9VAC15-60-120 C 1](#)).

"Concentrating photovoltaics" or "CPV" means PV systems with equipment to focus or direct sunlight on the PV cells. For purposes of this chapter, CPV is included in the definition of PV.

"DACs" means the Department of Agriculture and Consumer Services.

"DCR" means the Department of Conservation and Recreation.

"DCR Virginia Solar Site Pollinator/Bird Habitat Scorecard" means assessment tool used to establish target conditions for pollinator friendly habitat and/or evaluate the effectiveness of PollinatorSmart performance measures once implemented.

"Department" means the Department of Environmental Quality, its director, or the director's designee.

"DGIF" means the Department of Game and Inland Fisheries.

"DHR" means the Department of Historic Resources.

"Disturbance zone" means the area within the site directly impacted by land-disturbing activity including but not limited to construction and operation of the solar energy project, the panel zone and within 100 feet of the boundary of the directly impacted area.

"Document certification" means the following statement signed by the responsible official or person and submitted to the department with the application documents for a permit by rule. This certification also applies to all supplemental information provided to the department after the initial application submittal:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

"Historic resource" means any prehistoric or historic district, site, building, structure, object, or cultural landscape that is included or meets the criteria necessary for inclusion in the Virginia Landmarks Register pursuant to the authorities of § [10.1-2205](#) of the Code of Virginia and in accordance with [17VAC5-30-40](#) through [17VAC5-30-70](#).

"Integrated PV" means photovoltaics incorporated into building materials, such as shingles.

"Interconnection point" means the point or points where the solar energy project connects to a project substation for transmission to the electrical grid.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in § [62.1-44.15:34](#) of the Code of Virginia.

"Notice of Intent" or "NOI" means written notification from an applicant stating intent to submit documentation for a permit under this chapter, accompanied by a non-refundable fee of \$XXXX.

"Natural heritage resource" means the habitat of rare, threatened, or endangered plant and animal species, rare or state significant natural communities or geologic sites, and similar features of scientific interest benefiting the welfare of the citizens of the Commonwealth.

"Open area" means any area beyond the panel zone within the site boundary of a project.

"Operator" means the person responsible for the overall operation and management of a solar energy project.

"Other solar technologies" means ~~materials or devices~~ materials, devices, or methodologies of producing electricity from sunlight other than PV or CPV.

"Owner" means the person who owns all or a portion of a solar energy project.

"Panel zone" means the area underneath the solar arrays including inter-row spacing of a project.

"Parking lot" means an improved area, usually divided into individual spaces and covered with pavement or gravel, intended for the parking of motor vehicles.

"Permit by rule" or "PBR" means provisions of the regulations stating that a project or activity is deemed to have a permit if it meets the requirements of the provision.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

"Photovoltaic" or "PV" means materials and devices that absorb sunlight and convert it directly into electricity by semiconductors.

"Photovoltaic cell" or "PV cell" means a solid state device that converts sunlight directly into electricity. PV cells may be connected together to form PV modules, which in turn may be combined and connected to form PV arrays (often called PV panels).

"Photovoltaic system" or "PV system" means PV cells, which may be connected into one or more PV modules or arrays, including any appurtenant wiring, electric connections, mounting hardware, power-conditioning equipment (inverter), and storage batteries.

"Preconstruction" means any time prior to commencing land-clearing operations necessary for the installation of energy-generating structures at the small solar energy project.

"Rated capacity" means the maximum capacity of a solar energy project based on Photovoltaic USA Test Conditions (PVUSA Test Conditions) rating.

"Responsible official or responsible person" means:

1. For a corporation, or limited liability company, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

2. For partnership or sole proprietorship, a general partner or the proprietor, respectively; and

3. For a local government entity or state, federal, or other public agency, either a principal executive officer or ranking elected official.

"Screening zone" means a vegetated visual barrier.

"Site" means the area containing a solar energy project that is under common ownership or operating control. Electrical infrastructure and other appurtenant structures up to the interconnection point shall be considered to be within the site.

"Small renewable energy project" means (i) an electrical generation facility with a rated capacity not exceeding 150 megawatts that generates electricity only from sunlight or wind; (ii) an electrical generation facility with a rated capacity not exceeding 100 megawatts that generates electricity only from falling water, wave motion, tides, or geothermal power; or (iii) an electrical generation facility with a rated capacity not exceeding 20 megawatts that generates electricity only from biomass, energy from waste, or municipal solid waste.

"Small solar energy project," "solar energy project," or "project" means a small renewable energy project that (i) generates electricity from sunlight, consisting of one or more PV systems and other appurtenant structures and facilities within the boundaries of the site; and (ii) is designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts. Two or more solar energy projects otherwise spatially separated but under common ownership or operational control, which are connected to the electrical grid under a single interconnection

agreement, shall be considered a single solar energy project. Nothing in this definition shall imply that a permit by rule is required for the construction of test structures to determine the appropriateness of a site for the development of a solar energy project.

"Supplemental information" means documents, reports or information submitted to the department after the date of the initial application submittal.

"T&E species " "state threatened or endangered species ," or "state-listed species " means any species as designated as a Virginia endangered or threatened species by DGIF pursuant to the §§ 29.1-563 through 29.1-570 and 4VAC15-20-130 of the Code of Virginia and by DACS pursuant to the COV § 3.2-1000-1100 and 2VAC5-320-10.

"T&E wildlife" "state threatened or endangered species wildlife," or "state-listed species wildlife" means any wildlife species designated as a Virginia endangered or threatened species by DGIF pursuant to the §§ 29.1-563 through 29.1-570 of the Code of Virginia and 4VAC15-20-130.

"Virginia Endangered Plant and Insect Species Act" -(COV § 3.2-1000-1100)-
The **Endangered Plant and Insect Species Act** (EPISA) of the Code of **Virginia** mandate that the **Virginia** Department of Agriculture and Consumer Services conserve, protect and manage **endangered** and threatened **plant and insect species**.

"Virginia Pollinator Protection Strategy"- A strategy to promote the health of and mitigate the risks to all pollinator species and (ii) ensure a robust agriculture economy and apiary industry for honeybees and other managed pollinators. The strategy plan includes support for increases in pollinator habitat, reduction of the risk to pollinators from pesticides and identification of additional opportunities for education and outreach on pollinators ([§ 3.2-108.1](#)).

"Virginia Natural Landscape Assessment Ecological Cores"- Ecological Cores are large patches of natural land with at least 100 contiguous acres of interior, which begins 100 meters inward from the nearest edge between natural and unnatural land covers. The predominant cover in Ecological Cores statewide is forest, but marsh, beach, and dune covers are significant components in the coastal plain. Ecological Cores are ranked by integrity to reflect the wide range of important benefits and ecosystem services they provide, including biodiversity conservation, wildlife habitat, aesthetic values, recreational opportunities, and protections for air and water quality.

"VLR" means the Virginia Landmarks Register ([9VAC15-60-120](#) B 1).

"VLR-eligible" means those historic resources that meet the criteria necessary for inclusion on the VLR pursuant to [17VAC5-30-40](#) through [17VAC5-30-70](#) but are not listed in VLR.

"VLR-listed" means those historic resources that ~~have been~~ are listed in the VLR in accordance with the criteria of [17VAC5-30-40](#) through [17VAC5-30-70](#).

~~"Wildlife" means wild animals; except, however, that T&E insect species shall only be addressed as part of natural heritage resources and shall not be considered T&E wildlife.~~

~~9VAC15-60-20. Authority and Applicability.~~

~~A. This regulation is issued under authority of Article 5 (§ [10.1-1197.5](#) et seq.) of Chapter 11.1 of Title 10.1 of the Code of Virginia. The regulation contains requirements for solar-powered~~

~~electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts. This chapter applies to small solar energy projects throughout the Commonwealth of Virginia.~~

~~B. The department has determined that a permit by rule is required for small solar energy projects with a rated capacity greater than five megawatts and a disturbance zone greater than 10 acres, provided that the projects do not otherwise meet the criteria for Part III (9VAC15-60-130) of this chapter, and this regulation contains the permit by rule provisions for these projects in Part II (9VAC15-60-30 et seq.) of this chapter. This chapter applies to any small solar energy project with a rated capacity greater than five megawatts and a disturbance zone greater than 10 acres or that meet the criteria as set forth in Part III of this chapter.~~

~~C. The department has determined that different provisions should apply to projects that meet the criteria as set forth in Part III (9VAC15-60-130) of this chapter, and this regulation contains the requirements, if any, for these projects in Part III (9VAC15-60-130 A and B) of this chapter. Projects that meet the criteria for Part III of this chapter are deemed to be covered by the permit by rule~~

~~D C. The department has determined that small renewable energy projects utilizing other solar technologies shall fulfill all of the requirements in 9VAC15-40 as prescribed for small wind energy projects, unless (i) the owner or operator of the proposed project presents to the department information indicating that the other solar technology presents no greater likelihood of significant adverse impacts to natural resources than does PV technology and (ii) the department determines that it is appropriate for the proposed project utilizing the other solar technology to meet the requirements of this chapter or of some modification to either 9VAC15-40 or this chapter, as prescribed by the department for that particular project.~~

9VAC15-60-30. Application for Permit by Rule for Solar Energy Projects with Rated Capacity Greater Than Five Megawatts and Disturbance Zone Greater Than 10 Acres.

Part II

Permit by Rule Provisions for Solar Energy Projects with Rated Capacity Greater than Five Megawatts and Disturbance Zone Greater than Ten Acres

~~A. The owner or operator of a small solar energy project with a rated capacity greater than five megawatts and a disturbance zone greater than 10 acres, provided that the project does not otherwise meet the criteria for Part III (9VAC15-60-130 A or B) of this chapter, shall submit to the department a complete application in which he satisfactorily accomplishes all of the following: A complete application shall contain the following:~~

~~1. In accordance with § 10.1-1197.6 B 1 of the Code of Virginia, and as early in the project development process as practicable, furnishes to the department a notice of intent, to be published in the Virginia Register, that he intends to submit the necessary documentation for a permit by rule for a small renewable energy project; A notice of intent submitted to the department and publish the notice in the Virginia Register prior to the start of any preconstruction analysis required under 9VAC15-60-40, or no later than 30 days after the applicant has received local approval for the project, which ever first occurs. The notice will include the following information:~~

~~a. Name and address of the project as intended to appear in the PBR authorization;~~

~~b. Location including county or Township and initial GIS shape file;~~

c. Name and address of the responsible party majority or plurality beneficial owner of the solar project company;

d. Total acreage of the site including total forest and agricultural land acres; and

e. Description of the project including approximate number of solar panels and rated capacity expressed in megawatts of alternate current (AC).

2. In accordance with § [10.1-1197.6](#) B 2 of the Code of Virginia, furnishes to the department a certification by the governing body of the locality or localities wherein the small renewable energy project will be located that the project complies with all applicable land use ordinances. Analysis required under 9VAC15-60-40 may be required to be available prior to receiving local approval;

3. In accordance with § [10.1-1197.6](#) B 3 of the Code of Virginia, furnishes to the department copies of all interconnection studies undertaken by the regional transmission organization or transmission owner, or both, on behalf of the small renewable energy project;

4. In accordance with § [10.1-1197.6](#) B 4 of the Code of Virginia, furnishes to the department a copy of the final interconnection agreement between the small renewable energy project applicant and the regional transmission organization or transmission owner indicating that the connection of the small renewable energy project will not cause a reliability problem for the system. If the final agreement is not available, the most recent interconnection study shall be sufficient for the purposes of this section. When a final interconnection agreement is complete, it shall be provided to the department within 30 days of the date of commencing beginning construction. The department shall forward a copy of the agreement or study to the State Corporation Commission;

5. In accordance with § [10.1-1197.6](#) B 5 of the Code of Virginia, furnishes to the department a certification signed including signature and stamp by a professional engineer licensed in Virginia that the maximum generation capacity of the small solar energy project, as designed, does not exceed 150 megawatts;

6. In accordance with § [10.1-1197.6](#) B 6 of the Code of Virginia, furnishes to the department an analysis of potential environmental impacts of the small renewable energy project's operations on attainment of national ambient air quality standards;

7. In accordance with § [10.1-1197.6](#) B 7 of the Code of Virginia, furnishes to the department, ~~where relevant,~~ an analysis of the beneficial and adverse impacts of the proposed project on natural resources. ~~The owner or operator shall perform the analyses prescribed in pursuant to 9VAC15-60-40. For wildlife, that analysis shall be based on information on the presence, activity, and migratory behavior of wildlife to be collected at the site for a period of time dictated by the site conditions and biology of the wildlife being studied, not exceeding 12 months;~~

8. In accordance with § [10.1-1197.6](#) B 8 of the Code of Virginia, furnishes to the department a mitigation plan pursuant to [9VAC15-60-60](#) if a determination of potential significant impact has been determined according to [9VAC15-60-50](#) that details reasonable actions to be taken by the owner or operator to avoid, minimize, or otherwise mitigate such impacts, and to measure the efficacy of those actions; provided, however, that the provisions of this subdivision shall only be required if the department determines, pursuant to [9VAC15-60-50](#), that the information collected pursuant to § [10.1-1197.6](#) B 7 of the Code of Virginia and [9VAC15-60-40](#) indicates that significant adverse impacts to wildlife or historic resources are likely. The mitigation plan shall be an addendum to the operating plan of the solar energy project, and the owner or operator

~~shall implement the mitigation plan as deemed complete and adequate by the department. The mitigation plan shall be an enforceable part of the permit by rule;~~

9. ~~In accordance with § [10.1-1197.6](#) B 9 of the Code of Virginia, furnishes to the department a certification signed including signature and stamp by a professional engineer licensed in Virginia that the project is designed in accordance with [9VAC15-60-80](#);~~

10. ~~In accordance with § [10.1-1197.6](#) B 10 of the Code of Virginia, furnishes to the department an operating plan that includes a description of how the project will be operated. The operation plan will also include a mitigation plan if one is required due to findings under [9VAC15-60-50](#) in compliance with its mitigation plan, if such a mitigation plan is required pursuant to [9VAC15-60-50](#);~~

11. ~~In accordance with § [10.1-1197.6](#) B 11 of the Code of Virginia, furnishes to the department a detailed site plan meeting the requirements of [pursuant to 9VAC15-60-70](#);~~

12. ~~In accordance with § [10.1-1197.6](#) B 12 of the Code of Virginia, furnishes to the department a certification signed by the applicant that the small solar energy project has applied, registered for or obtained all necessary environmental permits;~~

13. ~~In accordance with § [10.1-1197.6](#) H and I of the Code of Virginia, furnishes to the department a certification signed by the applicant that the small solar energy project is being proposed, developed, constructed, or purchased by a person that is not a utility regulated pursuant to Title 56 of the Code of Virginia or provides certification that (i) the project's costs are not recovered from Virginia jurisdictional customers under base rates, a fuel factor charge, or a rate adjustment clause, or (ii) the applicant is a utility aggregation cooperative formed under Article 2 (§ [56-231.38](#) et seq.) of Chapter 9.1 of Title 56 of the Code of Virginia;~~

14. ~~Prior to authorization of the project and in accordance with § [10.1-1197.6](#) B 13 and B 14 of the Code of Virginia, conducts A summary report of public comment activities pursuant to [9VAC15-60-90](#); a 30-day public review and comment period and holds a public meeting pursuant to [9VAC15-60-90](#). The public meeting shall be held in the locality or, if the project is located in more than one locality, in a place proximate to the location of the proposed project. Following the public meeting and public comment period, the applicant shall prepare a report summarizing the issues raised by the public and include any written comments received and the applicant's response to those comments. The report shall be provided to the department as part of this application; and~~

15. ~~In accordance with [9VAC15-60-110](#), furnishes to the department the appropriate fee. Appropriate fees pursuant to 9VAC15-60-100 and if required, mitigation pursuant to 9VAC5-15-60-60 B: and~~

16. A cover letter containing the following:

a. The name of the individual receiving the permit by rule authorization; and,

b. Document certification signed by a responsible person that contains the following statement:

"I certify under penalty of law that this application document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information

submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

~~B. Within 90 days of receiving all of the required documents and fees listed in subsection A of this section, the department shall determine, after consultation with DCR, DHR and DGIF, whether the application is complete and whether it adequately meets the requirements of this chapter. other agencies in the Secretariat of Natural Resources, whether the application is complete and whether it adequately meets the requirements of this chapter pursuant to § 10.1-1197.7 A of the Code of Virginia.~~

1. If the department determines that the application meets the requirements of this chapter, then the department shall notify the applicant in writing that the application is complete he and the applicant is authorized to construct and operate a small solar energy project pursuant to this chapter.

2. If the department determines that the application does not meet the requirements of this chapter, ~~then~~ the department shall notify the applicant in writing and specify the deficiencies.

3. If the applicant chooses to correct deficiencies in a previously submitted application, the applicant shall notify the department no later than XX days after receipt of the incomplete determination and submit required supplemental information in a timeframe and manner acceptable to the department. The department shall follow the procedures of this subsection and notify the applicant whether the revised application supplemental information meets the requirements of this chapter within 60 days of receiving the revised application supplemental information.

4. Any case decision by the department pursuant to this subsection shall be subject to the process and appeal provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

C. Any responsible person who fails to submit any relevant facts or who has submitted incorrect information in an application or supplemental information shall, upon becoming aware of such failure or incorrect submittal, promptly submit corrected information.

D. Unless an extension is granted by the department, The authorization to construct and operate shall become invalid if:

1. A program of continuous construction or modification is not begun within ~~eighteen months~~ 55 months from the date the PBR or modification authorization is issued; or

2. A program of construction or modification is discontinued for a period of 18 months or more, or is not completed within a reasonable time, except for a department approved period between phases of a phased construction project.

3. The department may grant an extension for subdivisions 1 or 2 of this subsection on a case by case basis.

E. Any project for which the PBR or modification authorization has been deemed invalid will require new NOI, application documents and fee to reactivate authorization.

9VAC15-60-40. Analysis of the Beneficial and Adverse Impacts on Natural Resources.

~~A. Analyses of wildlife. To fulfill the requirements of § 10.1-1197.6 B 7 of the Code of Virginia, the~~ The applicant shall conduct preconstruction wildlife analyses, based on information on the presence, activity, and migratory behavior of wildlife to be collected at the site for a period of time dictated by the site conditions and biology of the wildlife being studied, not exceeding 12 months and conduct preconstruction wildlife analyses. The analyses of wildlife shall include the following:

1. Desktop surveys and maps. The applicant shall obtain a wildlife report and map generated

a. from DGIF's Virginia Fish and Wildlife Information Service web-based application (9VAC15-60-120 C 3); or

b. from a data and mapping system including the most recent data available from DGIF's subscriber-based Wildlife Environmental Review Map Service of the following: (i) known wildlife species and habitat features on the site or within two miles of the boundary of the site and (ii) known or potential sea turtle nesting beaches located within one-half mile of the site; and

c. information for bald eagle nesting locations from the Center for Conservation Biology at the College of William and Mary.

2. Desktop map for avian resources in Coastal Avian Protection Zones (CAPZ). The applicant shall consult the "Coastal Avian Protection Zones" map generated on the department's CoastalGEMS geospatial data system (9VAC15-60-120 C 1) and determine whether the proposed solar energy project site will be located in part or in whole within one or more CAPZ.

3. The applicant shall assess and describe the expected beneficial and adverse impacts, if any, of the proposed project on wildlife identified by these studies and analyses.

~~B. Analyses of historic resources. To fulfill the requirements of § 10.1-1197.6 B 7 of the Code of Virginia, the~~ The applicant shall also conduct a preconstruction historic resources analysis. The analysis shall be conducted by a qualified professional meeting the professional qualification standards of the Secretary of the Interior's Standards for Archeology and Historic Preservation (9VAC15-60-120 B-2) in the appropriate discipline. The analysis shall include each of the following:

~~1. Compilation of known historic resources. The applicant shall gather information~~ Information on known historic resources within the disturbance zone and within one-half mile of the disturbance zone boundary, and present presented this information on the context map referenced in 9VAC15-60-70 B, or as an overlay to this context map, as well as in tabular format.

~~2. Architectural survey. The applicant shall conduct a~~ Phase 1 architectural field survey of all architectural resources, including cultural landscapes, 50 years of age or older within the disturbance zone and within one-half mile of the disturbance zone boundary. The architectural survey shall document and record all qualifying resources, and evaluate their eligibility of any identified resource for listing in the VLR, and be approved by DHR prior to submittal of the PBR application. The architectural survey area may be refined by the applicant based on an analysis of the project's existing viewshed to exclude areas that have no direct view to the project. The applicant shall provide detailed justification for any changes to the survey area..

~~3. Archaeological survey. The applicant shall conduct a~~ Phase 1 archaeological field survey of the disturbance zone. The archaeological survey shall identify and record archaeological

resources within the disturbance zone, evaluate their eligibility of any identified archaeological site for listing in the VLR and be approved by DHR prior to submittal of the PBR application. To streamline archaeological investigations, the survey may be guided by a research design that utilizes a probability assessment or predictive modelling provided that such a research design is approved by DEQ and DHR prior to conducting the fieldwork. As an alternative to performing this archaeological survey, the applicant may make a demonstration to the department that the project will utilize nonpenetrating footings technology and that any necessary grading of the site prior to construction does not have the potential to adversely impact any archaeological resource.

4. The applicant shall assess and describe the expected beneficial and adverse impacts, if any, of the proposed project on historic resources identified by these studies and analyses.

C. Analyses of other natural resources. ~~To fulfill the requirements of § 10.1-1197.6 B 7 of the Code of Virginia, the~~ The applicant shall also conduct a preconstruction desktop survey of natural heritage resources and Virginia Natural Landscape Assessment (VANLA) Ecological Cores within the site ~~within the disturbance zone.~~ The analysis shall include the following:

1. Applicant may obtain a natural heritage resource report through coordination with DCR
 - a. using the DCR on-line information service order form (9 VAC 15-60-120 B 5) ;
or
 - b. from the DCR's subscriber-based Natural Heritage Data Explorer web application (9 VAC 15-60-120 C 2) including the most recent data available of the following: (i) documented occurrences of natural heritage resources within 100ft of the site boundaries (ii) intersection of the site with predicted suitable habitat (PSH) models developed by DCR for rare, threatened and endangered species and (iii) intersection of the site with Virginia Natural Landscape Assessment Ecological Cores.
2. DCR may recommend on site surveys for natural heritage resources based on preconstruction desktop analysis.
3. Based on desktop reviews and on site surveys, DCR may recommend avoidance or minimization of impacts to documented natural heritage resources and/or VANLA Ecological Cores within the site and when these measures are not feasible, coordination with DCR-Natural Heritage for compensatory mitigation.
4. An evaluation of the project design relative to the Virginia Pollinator Protection Strategy, including but not limited to, the completed DCR Virginia Solar Site Pollinator/Bird Habitat Scorecard (9 VAC 15-60-120 B 2) highlighting the overall score.

D. Summary report. The applicant application shall ~~provide~~ contain to the department a report presenting the findings of the studies and analyses conducted pursuant to subsections A, B, and C of this section. All along with all data and supporting documents shall be provided to the respective agencies responsible for analysis to make determinations pursuant to 9VAC15-60-

~~50. The applicant shall assess and describe the expected beneficial and adverse impacts, if any, of the proposed project on wildlife and historic resources identified by these studies and analyses.~~

9VAC15-60-50. Determination of Likely Significant Adverse Impacts.

A. The department shall find that significant adverse impacts to wildlife are likely whenever the wildlife analyses prescribed in [9VAC15-60-40](#) A document that any of the following conditions exists:

1. State-listed T&E wildlife are found to occur within the ~~disturbance zone site~~ or the ~~disturbance zone site~~ is located on or within one-half mile of a known or potential sea turtle nesting beach.
2. The ~~disturbance zone site~~ is located in part or in whole within zones 1, 2, 3, 4, 5, 10, 11, 12, or 14 on the Coastal Avian Protection Zones (CAPZ) map.

B. The department shall find that significant adverse impacts to historic resources are likely whenever the historic resources analyses prescribed by [9VAC15-60-40](#) B indicate that the proposed project is likely to diminish significantly any aspect of a historic resource's integrity.

C. The department shall find that significant adverse impacts to natural heritage resources and ecological cores are likely whenever the analysis prescribed by 9VAC15-60-40 C indicates that natural heritage resources or ecological cores occur within the disturbance zone.

roposed project is likely to diminish significantly any aspect of a historic resource's integrity.

9VAC15-60-60. Mitigation Plan.

~~A. If the department determines that significant adverse impacts to wildlife or historic resources or both are likely, then the applicant shall prepare a mitigation plan. The applicant shall prepare a mitigation plan for any resource for which a significant adverse impact determination has been made as a result of the analysis required under 9VAC15-60-40. The plan shall detail actions by the applicant to avoid, minimize, or otherwise mitigate such impacts. Mitigation measures for significant adverse impacts to wildlife shall include:~~

~~B. Mitigation measures for significant adverse impacts to wildlife shall include:~~

1. For state-listed T&E wildlife, the applicant shall take all reasonable measures to avoid significant adverse impacts or shall demonstrate in the mitigation plan what significant adverse impacts cannot practicably be avoided and why additional proposed actions are reasonable. These additional proposed actions may include best practices to avoid, minimize, or offset adverse impacts to resources analyzed pursuant to [9VAC15-60-40](#) A or C.
2. For proposed projects where the ~~disturbance zone site~~ is located on or within one-half mile of a known or potential sea turtle nesting beach, the applicant shall take all reasonable measures to avoid significant adverse impacts or shall demonstrate in the mitigation plan what significant adverse impacts cannot practicably be avoided, and why additional proposed mitigation actions are reasonable. Mitigation measures shall include the following:
 - a. Avoiding construction within likely sea turtle crawl or nesting habitats during the turtle nesting and hatching season (May 20 through October 31). If avoiding construction during this period is not possible, then conducting daily crawl surveys of the disturbance zone (May 20 through August 31) and one mile beyond the northern and southern reaches of the disturbance zone

(hereinafter "sea turtle nest survey zone") between sunrise and 9 a.m. by qualified individuals who have the ability to distinguish accurately between nesting and nonnesting emergences.

b. If construction is scheduled during the nesting season, then including measures to protect nests and hatchlings found within the sea turtle nest survey zone.

c. Minimizing nighttime construction during the nesting season and designing project lighting during the construction and operational phases to minimize impacts on nesting sea turtles and hatchlings.

3. For projects located in part or in whole within zones 1, 2, 3, 4, 5, 10, 11, 12, or 14 on the Coastal Avian Protection Zones (CAPZ) map, contribute \$1,000.00 per megawatt of rated capacity, or partial megawatt thereof, to a fund designated by the department in support of scientific research investigating the impacts of projects in CAPZ on avian resources.

B. Mitigation measures for significant adverse impacts to historic resources shall include:

1. Significant adverse impacts to VLR-eligible or VLR-listed architectural resources shall be minimized, to the extent practicable, through design of the solar energy project or the installation of vegetative or other screening.

2. If significant adverse impacts to VLR-eligible or VLR-listed architectural resources cannot be avoided or minimized such that impacts are no longer significantly adverse, then the applicant shall develop a reasonable and proportionate mitigation plan that offsets the significantly adverse impacts and has a demonstrable public benefit and benefit for the affected or similar resource.

3. If any identified VLR-eligible or VLR-listed archaeological site cannot be avoided or minimized to such a degree as to avoid a significant adverse impact, significant adverse impacts of the project will be mitigated through archaeological data recovery.

C. Mitigation measures for significant adverse impacts to natural heritage resources and Virginia Natural Lands Assessment Ecological Cores shall include:

For discussion

9VAC15-60-70. Site Plan and Context Map Requirements.

A. The applicant shall submit a site plan that includes maps showing the physical features, topography, and land cover of the area within the site, both before and after construction of the proposed project. The site plan shall be submitted at a scale sufficient to show, and shall include, the following:

(i) 1. the boundaries of the site, boundaries of the disturbance zone, and site buffer areas;

(ii) 2. the location, height, and dimensions of all existing and proposed PV systems, other structures, fencing, and other interconnection infrastructure;

4. Fencing location and height;

5. Location and dimensions of other structures;

6. Location of any resources subject to mitigation including avoidance and any proposed mitigation measures or buffers;

(iii) 7. the location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road;

(iv) 8. water bodies, waterways, wetlands, and drainage channels; and

9. final GIS shape file.

B. The applicant shall submit a context map including the area encompassed by the site and within five miles of the site boundary. The context map shall show state and federal resource lands and other protected areas, Coastal Avian Protection Zones, historic resources, state roads, waterways, locality boundaries, forests, open spaces, and transmission and substation infrastructure.

9VAC15-60-80. Small Solar Energy Project Design Standards and Operation Plan.

A. The design and installation of the small solar energy project shall incorporate any requirements of the mitigation plan that pertain to design and installation if a mitigation plan is required pursuant to [9VAC15-60-50](#).

B. The applicant shall prepare an operation plan detailing operational parameters for the project including, but not limited to:

1. Staffing or remote monitoring;

2. Maintenance of PV system;

3. Landscape maintenance including a discussion of vegetation to be used under the photovoltaic system and within buffer areas and projected amount and application frequency of herbicides and pesticides on the project site over the life of the project. The operation plan shall include a link to the DACS Pollinator Protection Plan. Owners and operators are encouraged to utilize the link prior to the application of either pesticides or herbicides; and

4. Emergency procedures and contact personnel.

9VAC15-60-90. Public Participation.

~~A. Before the initiation of any construction at the small solar energy project, the applicant shall comply with this section. The owner or operator shall first publish a notice once a week for two consecutive weeks in a major local newspaper of general circulation informing the public that he intends to construct and operate a project eligible for a permit by rule. No later than the date of newspaper publication of the initial notice, the owner or operator shall submit to the department a copy of the notice along with electronic copies of all documents that the applicant plans to submit in support of the application. The notice shall include:~~

The applicant shall compile all application documents and make them available for public review and comment during a public comment period. Any information that is to remain confidential must meet the requirements of appropriate Code citation. The public comment period shall be

conducted pursuant to subsection B of this section. A public meeting shall be conducted pursuant to subsection C of this section. A public participation report shall be compiled and included in the application pursuant to subsection D of this section.

B. The applicant shall consult with the locality to identify any low-income or minority populations and publish a notice in at least one local newspaper that reaches the identified population(s) and a local newspaper that the public shall be provided at least 30 days to comment on the proposed project and application documents and that a public meeting shall be held during the comment period.

1. The comment period shall begin no sooner than 15 days after the applicant initially publishes the notice in the local newspaper.

2. The notification for the comment period shall be published once a week for two consecutive weeks in a local newspaper of general circulation and include the following:

1 a. A brief description of the proposed project, and its location, including the approximate dimensions of the site and disturbance zone, and the approximate number and configuration of PV systems, and approximate maximum height of PV systems;

2 b. A statement that the purpose of the public participation is to:

(i) 1. acquaint the public with the technical aspects of the proposed project and how the standards and the requirements of this chapter will be met,

(ii) 2. identify issues of concern,

(iii) 3. facilitate communication, and

(iv) 4. establish a dialogue between the owner or operator and persons who may be affected by the project;

3. Announcement of a 30-day comment period in accordance with subsection C ~~B~~ of this section, and the name, telephone number, address, and email address of the applicant who can be contacted by the interested persons to answer questions or to whom comments shall be sent. The start and end dates of the 30-day comment period;

4. Announcement of the date, time, and place for a public meeting held in accordance with subsection D of this section. The date, time and place for a public meeting convenient for public attendance and in the locality where the project is proposed; and

5. Location where copies of the ~~documentation to be submitted to the department in support of the permit by rule application~~ documents will be available for inspection accessible to the public during business hours for the duration of the comment period in the jurisdiction of the proposed project;

6. Uniform Resource Locator (URL) for reviewing application documents on the World Wide Web; and

7. The name, telephone number, address, and email address of the applicant who can be contacted by the interested persons to answer questions or to whom comments shall be sent.

~~B. The owner or operator shall place a copy of the documentation in a location accessible to the public during business hours for the duration of the 30-day comment period in the vicinity of the~~

~~proposed project~~ The applicant shall conduct a public meeting during the public comment period according to the following:

1. Scheduled during weekdays between the hours of 5p.m. to 9 p.m.;
2. Scheduled at least 15 days after the start of the comment period; and
3. Held in the locality in which the project is situated or, if the project is situated in more than one locality, in a place proximate to the proposed project. .

C. The public shall be provided at least 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period shall begin no sooner than 15 days after the applicant initially publishes the notice in the local newspaper. All application documents and a copy of the notice for the comment period shall be forwarded to the department in electronic format no later than the date of the initial publication date of the notice.

1. The applicant shall submit a public participation report as part of the application. At a minimum, the report shall include the following:

a. A description of the consultation that took place between the applicant and the locality pursuant to 9VAC15-60-90 (B) and the applicant’s outreach plan pursuant to that section;

b. Notice of the comment period;

c. Proof the notice was published in the newspaper for two consecutive weeks;

d. Public meeting sign-in sheet;

e. All public comments received, written and oral, and the applicant’s response to the comments.

2. The time frame for conducting the public participation activities shall follow the schedule under Table 1.

Table 1

Minimum Timeframe for Public Participation Requirements

<u>Day 1</u>	<u>1st publication of Notice of Public Comment Period in newspaper</u> <u>(Submit electronically all application documents and copy of the public notice to DEQ on or before this date.)</u>
<u>Day 8</u>	<u>2nd publication of Notice of Public Comment Period in newspaper</u>
<u>Day 16</u>	<u>Earliest date that minimum 30-day comment period can begin</u>
<u>Days 30-38</u>	<u>Conduct public meeting</u>
<u>Day 45</u>	<u>End of 30-day public comment period</u>

D. ~~The applicant shall hold a public meeting not earlier than 15 days after the beginning of the 30-day public comment period and no later than seven days before the close of the 30-day comment period. The meeting shall be held in the locality or, if the project is located in more than one locality, in a place proximate to the location of the proposed project.~~

E. For purposes of this chapter, the applicant and any interested party who submits written comments on the proposal to the applicant during the public comment period or who signs in and provides oral comments at the public meeting shall be deemed to have participated in the proceeding for a permit by rule under this chapter and pursuant to § [10.1-1197.7](#) B of the Code of Virginia.

9VAC15-60-100. Change of Ownership, Permit transfer, owner/operator name change, project modifications, reporting and recordkeeping, and permit termination.

A. Change of ownership. Permit transfer. A permit by rule may be transferred to a new owner or operator through an administrative amendment to the permit. If: The department will incorporate the administrative changes to the permit by rule after the receipt of the administrative amendment fee pursuant to 9VAC15-60-110.

1. The current owner or operator ~~notifies~~ shall notify the department at least 30 days ~~in advance of~~ after the transfer date ~~by submittal of a notice per subdivision 2 of this subsection; and provide a copy of the written agreement of business transfer between parties involved.~~

2. The ~~notice shall include a~~ written agreement ~~between the existing and new owner or operator containing shall include the~~ specific date for transfer of permit responsibility, coverage, and liability between them ~~parties;~~ and

3. The transfer of the permit by rule to the new owner or operator shall be effective on the date specified in the agreement described in subdivision 2 of this subsection. The new owner or operator shall submit a new certification pursuant to 9 VAC15-60-30 A 16 b and comply with all permit conditions under the permit by rule granted to the previous owner or operator.

B. Owner/Operator name change. The owner shall obtain an administrative permit change and notify the department of the new project name within 30 days of the name change.

~~C. Project modifications. Provided project modifications are in accordance with the requirements of this permit by rule and do not increase the rated capacity of the small solar energy project, the owner or operator of a project authorized under a permit by rule may modify its design or operation or both by furnishing to the department new certificates prepared by a professional engineer, new documentation required under 9VAC15-60-30, and the appropriate fee in accordance with 9VAC15-60-110. The owner or operator of a project authorized under this chapter may modify its design or operation. The department shall review the received modification submittal in accordance with the provisions of subsection B of 9VAC15-60-30.~~

1. Modifications that alter the disturbance zone boundary as depicted on the previously submitted application site map or increase the rated capacity of the project shall:

a. Conduct a public notice and comment period pursuant to 9VAC15-60-90;

b. Submit all new documents that different for the existing PBR including new certificates prepared and certified by a professional engineer; and

c. Submit the appropriate fee pursuant to 9VAC15-60-110.

2. Modification authorization will be determined on a case by case basis.

GD. Reporting and recording keeping.

1. The owner or operator shall furnish notification of the following:

a. The date the project began construction within 15 days after such date;

b. The date the project began commercial operation within 15 days of such date;

c. The date of any onsite construction or significant onsite maintenance that could impact the project's mitigation and avoidance plan within 15 days after such date;

d. A map of the project post construction clearly showing panel configuration relative to any required mitigation and incorporates any onsite changes resulting from any onsite construction or significant onsite maintenance that could impact the projects mitigation and avoidance plan within 90 days of completion of such work.

e. For projects that contain mitigation for view shed protection or historic resources, a post-construction demonstration of completed mitigation according to the approved mitigation or landscape plan within 90 days of completion of such work.

2. The following records shall be maintained onsite during construction:

a. A copy of the site map clearly show any resources to be avoided or mitigated

3. Upon request, the owner shall furnish to the department copies of records required to be kept by this permit by rule.

4. The owner or operator shall furnish to the department, within 30 days of notification, any information requested by the department.

E. Permit by rule termination. Pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), the department may terminate the permit by rule whenever the department finds that:

1. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in any report or certification required under this chapter;

2. Fails to comply with the conditions or commitments stated within the application submitted for a permit by rule; or

2. After the department has taken enforcement actions pursuant to 9VAC15-60-140, the owner or operator persistently operates the project in significant violation of Violates the project's mitigation plan.

Prior to terminating a permit by rule pursuant to subdivision 1 or 2 of this subsection, the department shall hold an informal fact-finding proceeding pursuant to § 2.2-4019 of the Virginia Administrative Process Act in order to assess whether to continue with termination of the permit

by rule or to issue any other appropriate order. If the department determines that it should continue with the termination of the permit by rule, the department shall hold a formal hearing pursuant to § ~~2.2-4020~~ of the Virginia Administrative Process Act. Notice of the formal hearing shall be delivered to the owner or operator. Any owner or operator whose permit by rule is terminated by the department shall cease operating his small solar energy project.

9VAC15-60-110. Fees for Projects Subject to Part II of This Chapter.

A. Purpose. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit by rule or a modification to an existing permit by rule for a small solar energy project subject to Part II ([9VAC15-60-30](#) et seq.) of this chapter.

B. Permit fee payment and deposit. Fees for permit by rule applications or modifications shall be paid by the applicant as follows:

1. Due date. All permit application fees or modification fees are due on submittal day of the application or modification package.

2. Method of payment. Fees shall be paid by check, draft, or postal money order made payable to "Treasurer of Virginia/DEQ" and shall be sent to the Department of Environmental Quality, Receipts Control, P.O. Box 1104, Richmond, VA 23218.

3. Incomplete payments. All incomplete payments shall be deemed nonpayments.

4. Late payment. No application or modification submittal will be deemed complete until the department receives proper payment.

C. Fee schedules. Each application for a permit by rule and each application for a modification of a permit by rule is a separate action and shall be assessed a separate fee. The amount of the permit application fee is based on the costs associated with the permitting program required by this chapter. The fee schedules are shown in the following table:

Type of Action	Fee
Permit by rule application — by rated capacity:	
>5 MW up to and including 25 MW	\$8,000
>25 MW up to and including 50 MW	\$10,000
>50 MW up to and including 75 MW	\$12,000
>75 MW up to and including 150 MW	\$14,000
Permit by rule modification — for any project subject to Part II of this chapter	\$4,000

D. Use of fees. Fees are assessed for the purpose of defraying the department's costs of administering and enforcing the provisions of this chapter including permit by rule processing, permit by rule modification processing, and inspection and monitoring of small solar energy projects to ensure compliance with this chapter. Fees collected pursuant to this section shall be

used for the administrative and enforcement purposes specified in this chapter and in § [10.1-1197.6](#) E of the Code of Virginia.

E. Fund. The fees, received by the department in accordance with this chapter, shall be deposited in the Small Renewable Energy Project Fee Fund.

F. Periodic review of fees. Beginning July 1, 2013, and periodically thereafter, the department shall review the schedule of fees established pursuant to this section to ensure that the total fees collected are sufficient to cover 100% of the department's direct costs associated with use of the fees.

9VAC15-60-120. Internet Accessible Resources.

A. This chapter refers to resources to be used by applicants in gathering information to be submitted to the department. These resources are available through the Internet; therefore, in order to assist applicants, the uniform resource locator or Internet address is provided for each of the references listed in this section.

B. Internet available resources.

1. The Virginia Landmarks Register, Virginia Department of Historic Resources, 2801 Kensington Avenue, Richmond, Virginia. Available at the following Internet address: <http://www.dhr.virginia.gov/register/register.htm>.

2. Professional Qualifications Standards, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, as amended and annotated (48 FR 44716-740, September 29, 1983), National Parks Service, Washington, DC. Available at the following Internet address: http://www.nps.gov/history/local-law/arch_stnds_9.htm.

~~3. The Natural Communities of Virginia, Classification of Ecological Community Groups, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, Virginia. Available at the following Internet address: http://www.dcr.virginia.gov/natural_heritage/ncintro.shtml.~~

~~3. The Virginia Pollinator Smart Scorecard, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, Virginia. Available at the following Internet address: <https://www.dcr.virginia.gov/natural-heritage/pollinator-smart>.~~

4. Virginia's Comprehensive Wildlife Conservation Strategy, ~~2005 2015~~ (referred to as the Virginia Wildlife Action Plan), Virginia Department of Game and Inland Fisheries, ~~4010 West Broad Street, Richmond, Virginia 7870 Villa Park Drive, P.O. Box 90778, Henrico, VA 23228-0778~~. Available at the following Internet address: <http://www.bewildvirginia.org/wildlifeplan/>
<http://www.bewildvirginia.org/wildlife-action-plan/>

5. DCR Information Services Order Form, Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond, Virginia. Available at the following Internet address: <https://www.dcr.virginia.gov/natural-heritage/nhserviceform/>.

6. DGIF Solar Energy Facility Guidance: <https://www.dgif.virginia.gov/wp-content/uploads/media/Solar-Energy-Facility-Guidance.pdf>

7. DACS webpage for the Pollinator Protection Plan, <http://www.vdacs.virginia.gov/plant-industry-services-pollinator-protection-plan.shtml>

8. The BeeCheck program is an online mapping service provided through FieldWatch for beekeepers to provide locations of their apiaries and contact information for pesticide applicators to notify them of planned pesticide applications in the vicinity of an apiary. Information regarding the BeeCheck program and a link to Virginia's BeeCheck map is on DACS our apiary webpage at <http://www.vdacs.virginia.gov/plant-industry-services-beekeeping-apiary-inspection.shtml>.

9. A link to the final report for the Pollinator Protection Strategy is at <https://rga.lis.virginia.gov/Published/2018/RD199>.

C. Internet applications.

1. Coastal GEMS application, 2010, Virginia Department of Environmental Quality. Available at the following Internet address: <http://www.deq.virginia.gov/coastal/coastalgems.html>.

NOTE: This website is maintained by the department. Assistance and information may be obtained by contacting Virginia Coastal Zone Management Program, Virginia Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, Virginia 23219, (804) 698-4000.

2. Virginia Natural Landscape Assessment, Virginia Department of Conservation and Recreation. Available at the following Internet address: for detailed information on ecological cores go to <http://www.dcr.virginia.gov/natural-heritage/vclnavnla.shtml>. Land maps may be viewed at DCR's Land Conservation Data Explorer Geographic Information System website at <http://www.vaconservedlands.org/gis.aspx>.

NOTE: The website is maintained by DCR. Actual shapefiles and metadata are available for free by contacting a DCR staff person at vaconslands@dcr.virginia.gov or DCR, Division of Natural Heritage, 217 Governor Street, Richmond, Virginia 23219, (804) 786-7951.

2. Virginia Natural Landscape Assessment, Virginia Department of Conservation and Recreation. Available at the following Internet address: <https://www.dcr.virginia.gov/natural-heritage/vaconvisvnla>. NOTE: Updated Ecological Cores (2017 version, based on NLCD 2011) are available in two ways: Viewed at DCR's Natural Heritage Data Explorer (NHDE) website at <http://www.vanhde.org> or as a public feature service in [ArcGIS Online](#). Contact Joe Weber at Joseph.Weber@dcr.virginia.gov or 804.371.2545.

3. Virginia Fish and Wildlife Information Service ~~2010~~ 2019, Virginia Department of Game and Inland Fisheries. Available at the following Internet address: <http://www.vafwis.org/fwis/>.

NOTE: This website is maintained by DGIF and is accessible to the public as "visitors," or to registered subscribers. Registration, however, is required for access to resource-specific or species-specific locational data and records. Assistance and information may be obtained by contacting DGIF, Fish and Wildlife Information Service, 4010 West Broad Street, Richmond, Virginia 23230, (804) 367-6913. Registered subscribers have access to additional data used for scientific research, land management, permit review, and other regulatory review of projects. To learn more about becoming a registered subscriber, please contact by email vafwis_support@dgif.virginia.gov.

9VAC15-60-130. Small Solar Energy Projects Less Than or Equal to Five Megawatts or Less Than or Equal to 10 Acres or Meeting Certain Categorical Criteria.

Part III

Provisions for Projects Less Than or Equal to Five Megawatts or Less Than or Equal to 10 Acres or Meeting Certain Categorical Criteria

A. The owner or operator of a small solar energy project is not required to submit any notification or certification to the department if he meets at least one of the following criteria:

1. The small solar energy project has either a rated capacity equal to or less than 500 kilowatts or a disturbance zone equal to or less than two acres; or

2. The small solar project falls within at least one of the following categories, without regard to the rated capacity or the disturbance zone of the project:

a. The small solar energy project is mounted on a single-family or duplex private residence.

b. The small solar energy project is mounted on one or more buildings less than 50 years old or, if 50 years of age or older, have been evaluated and determined by DHR within the preceding seven years to be not VLR-eligible.

c. The small solar energy project is mounted over one or more existing parking lots, existing roads, or other previously disturbed areas and any impacts to undisturbed areas do not exceed an additional two acres.

d. The small solar energy project utilizes integrated PV only, provided that the building or structure on which the integrated PV materials are used is less than 50 years old or, if 50 years of age or older, has been evaluated and determined by DHR within the preceding seven years to be not VLR-eligible.

B. The owner or operator of a small solar energy project with either a rated capacity greater than 500 kilowatts and less than or equal to five megawatts or a disturbance zone greater than two acres and less than or equal to 10 acres shall notify the department and shall submit a certification by the governing body of the locality or localities wherein the project will be located that the project complies with all applicable land use ordinances.

9VAC15-60-140. Enforcement.

Part IV

Enforcement

The department may enforce the provisions of this chapter and any permits by rule authorized under this chapter in accordance with §§ [10.1-1197.9](#), [10.1-1197.10](#), and [10.1-1197.11](#) of the Code of Virginia. In so doing, the department may:

1. Issue directives in accordance with the law;

2. Issue special orders in accordance with the law;

3. Issue emergency special orders in accordance with the law;

4. Seek injunction, mandamus, or other appropriate remedy as authorized by the law;

5. Seek civil penalties under the law; or
6. Seek remedies under the law, or under other laws including the common law