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HOUSE BILL NO. 1855

House Amendments in [ ] - January 18, 2021

A BILL to amend and reenact §§ 2.2-204, 2.2-604.2, 2.2-1157, 2.2-1176.1, 2.2-3705.6, 2.2-4006, 10.1-606.3, 10.1-659, 10.1-1194, 10.1-1329, 10.1-1330, 10.1-1406.2, 11-34.3, 15.2-958.3, 15.2-980, 15.2-2224, 23.1-2626, 23.1-2627, 28.2-1208, 30-275, 33.2-236, 45.1-161.1, 45.1-161.2, 45.1-161.5, 45.1-161.15, 45.1-161.179, 45.1-161.292:2, 45.1-180, 45.1-229, 45.1-230, 45.1-270.4:1, 45.1-361.28, 45.1-361.41, 45.1-383, 45.1-390, 56-265.15:1, 56-576, 56-585.5, 56-594.3, 56-596.2, 58.1-439.2, 58.1-439.12:02, 58.1-3660, 58.1-3706, 58.1-3745, 62.1-44.15:21, 62.1-44.15:66, 62.1-195.1, 62.1-243, 62.1-256, 62.1-259, 63.2-805, 67-200, 67-202.1, 67-602, 67-900, 67-1000, 67-1206, 67-1208, 67-1209, 67-1403, and 67-1506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 45.1-161.4:1, relating to Department of Mines, Minerals and Energy.

Patron Prior to Engrossment—Delegate Sullivan

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-604.2, 2.2-1157, 2.2-1176.1, 2.2-3705.6, 2.2-4006, 10.1-606.3, 10.1-659, 10.1-1194, 10.1-1329, 10.1-1330, 10.1-1406.2, 11-34.3, 15.2-958.3, 15.2-980, 15.2-2224, 23.1-2626, 23.1-2627, 28.2-1208, 30-275, 33.2-236, 45.1-161.1, 45.1-161.2, 45.1-161.5, 45.1-161.15, 45.1-161.179, 45.1-161.292:2, 45.1-180, 45.1-229, 45.1-230, 45.1-270.4:1, 45.1-361.28, 45.1-361.41, 45.1-383, 45.1-390, 56-265.15:1, 56-576, 56-585.5, 56-594.3, 56-596.2, 58.1-439.2, 58.1-439.12:02, 58.1-3660, 58.1-3706, 58.1-3745, 62.1-44.15:21, 62.1-44.15:66, 62.1-195.1, 62.1-243, 62.1-256, 62.1-259, 63.2-805, 67-200, 67-202.1, 67-602, 67-900, 67-1000, 67-1206, 67-1208, 67-1209, 67-1403, and 67-1506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 45.1-161.4:1 as follows:

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Commonwealth of Virginia Innovation Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of ~~Mines, Minerals and~~ Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-604.2. Designation of officials; energy manager.

A. The head of each state agency shall designate an existing employee, known as an energy manager, who shall be responsible for implementing improvements to state buildings to reduce greenhouse gas emissions and improve energy efficiency and climate change resiliency.

B. The energy manager shall:

1. Maintain a list of the facilities owned and leased by his agency, including buildings and interior spaces. Such list shall indicate energy usage and any prior energy audit or energy saving performance contract.

2. Enter energy and water consumption and building-related information into the ENERGY STAR Portfolio Manager account for any building or facility over 5,000 square feet, beginning with the largest facilities not yet accounted for, as follows:

a. By January 1, 2021, five percent of agency facilities;

b. By January 1, 2022, 20 percent of agency facilities;

c. By January 1, 2023, 45 percent of agency facilities;

d. By January 1, 2024, 70 percent of agency facilities; and

e. By January 1, 2025, 100 percent of agency facilities.

3. By January 1, 2021, or as each utility account is established, whichever is later, coordinate with the Department of ~~Mines, Minerals and~~ Energy ~~(DMME)~~ to link utility accounts to the state portfolio master account and to provide to ~~DMME~~ *the Department of Energy* access to such ENERGY STAR Portfolio Manager account.

4. On an ongoing basis, identify priority buildings and spaces for energy audits or energy saving

performance contracts. In determining priorities, the energy manager may consider how energy usage may be reduced and the feasibility of installing energy saving or on-site renewable energy systems.

5. Provide to ~~DMME~~ *the Department of Energy* the priority building list on an annual basis.

§ 2.2-1157. Exploration for and extraction of minerals on state-owned uplands.

A. The Department of ~~Mines, Minerals and~~ Energy, in cooperation with the Division, shall develop, with the assistance of affected state agencies, departments, and institutions, a State Minerals Management Plan (the Plan). The Plan shall include provisions for the holding of public hearings and the public advertising for competitive bids or proposals for mineral exploration, leasing, and extraction activities on state-owned uplands. Sales of mineral exploration permits and leases for these lands shall be administered by the Division, with the advice of the Department of ~~Mines, Minerals and~~ Energy.

B. Upon receiving the recommendation of both the Director of the Department of General Services and the Director of the Department of ~~Mines, Minerals and~~ Energy, the Governor shall determine whether the proposed mineral exploration, leasing, or extraction of minerals on state-owned uplands is in the public interest. No state-owned uplands shall be approved for mineral exploration, leasing, or extraction without a public hearing in the locality where the affected land or the greater portion thereof is located and a competitive bid or proposal process as described in the Plan. The provisions of this section shall not apply to the extraction of minerals on state-owned uplands pursuant to an oil or gas pooling order unless the well through which the extraction will occur is situated on such land.

For purposes of this section, "state-owned uplands" means lands owned by the Commonwealth that (i) lie landward of the mean low water mark in tidal areas or (ii) have an elevation above the average surface water level in nontidal areas.

C. The agencies, departments, or institutions proposing or receiving applications for mineral exploration, leasing or extraction on state-owned uplands shall, through their boards or commissions, recommend all such activities to the Division following guidelines set forth in the Plan. The Division and the Department of ~~Mines, Minerals and~~ Energy shall review and recommend to the Governor such proposed activities. Such agencies, departments or institutions, through their boards or commissions, may execute the leases or contracts that have been approved by the Governor.

D. The proceeds from all such sales or leases above the costs of the sale to the Department of ~~Mines, Minerals and~~ Energy or to the agency, department or institution sponsoring the sale shall be paid into the general fund of the state treasury, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund. Net proceeds from sales or leases of special-fund agency properties or property acquired through a gift shall be retained by such agency or institution or used in accordance with the original terms of the gift if so stated.

E. Mining, leasing, and extraction activities in state-owned submerged lands shall be authorized and administered by the Virginia Marine Resources Commission pursuant to Title 28.2 (§ 28.2-100 et seq.).

§ 2.2-1176.1. Alternative Fuel Vehicle Conversion Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Alternative Fuel Vehicle Conversion Fund, hereinafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of such moneys appropriated by the General Assembly and any other funds available from donations, grants, in-kind contributions, and other funds as may be received for the purposes stated herein. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of assisting agencies of the Commonwealth with the incremental cost of state-owned alternative fuel vehicles and local government and agencies thereof and local school divisions with the incremental cost of such local government-owned alternative fuel vehicles. Moneys in the Fund may be used in conjunction with or as matching funds for any eligible federal grants for the same purpose. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

As used in this section, "incremental cost" means the entire cost of a certified conversion of an existing vehicle to use at least one alternative fuel or the additional cost of purchasing a new vehicle equipped to operate on at least one alternative fuel over the normal cost of a similar vehicle equipped to operate on a conventional fuel such as gasoline or diesel fuel.

The Director, in consultation with the Director of the Department of ~~Mines, Minerals and~~ Energy, shall establish guidelines for contributions and reimbursements from the Fund for the purchase or conversion of state-owned or local government-owned vehicles.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4

or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of ~~Mines, Minerals and~~ Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body

(i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded

by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not

generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia

Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.

2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law's effective date;

b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing.

6. Regulations of (i) the regulatory boards served by the Department of Labor and Industry pursuant to Title 40.1 and the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 and (ii) the Board of Accountancy that are limited to reducing fees charged to regulants and applicants.

7. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of ~~Mines, Minerals and~~ Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

9. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.

11. Regulations of the Marine Resources Commission.

12. Regulations adopted by the Board of Housing and Community Development pursuant to (i) Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

13. Amendments to regulations of the Board to schedule a substance pursuant to subsection D or E of § 54.1-3443.

14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the

provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption.

16. Amendments to the State Health Services Plan adopted by the Board of Health following receipt of recommendations by the State Health Services Task Force pursuant to § 32.1-102.2:1 if the Board (i) provides a Notice of Intended Regulatory Action in accordance with the requirements of § 2.2-4007.01, (ii) provides notice and receives comments as provided in § 2.2-4007.03, and (iii) conducts at least one public hearing on the proposed amendments.

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this section shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012.

C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

§ 10.1-606.3. Requirement for development in dam break inundation zones.

A. For any development proposed within the boundaries of a dam break inundation zone that has been mapped in accordance with § 10.1-606.2, the locality shall, as part of a preliminary plan review pursuant to § 15.2-2260, or as part of a plan review pursuant to § 15.2-2259 if no preliminary review has been conducted, (i) review the dam break inundation zone map on file with the locality for the affected impounding structure, (ii) notify the dam owner, and (iii) within 10 days forward a request to the Department of Conservation and Recreation to make a determination of the potential impacts of the proposed development on the spillway design flood standards required of the dam. The Department shall notify the dam owner and the locality of its determination within 45 days of the receipt of the request. Upon receipt of the Department's determination, the locality shall complete the review in accordance with § 15.2-2259 or 15.2-2260. If a locality has not received a determination within 45 days of the Department's receipt of the request, the Department shall be deemed to have no comments, and the locality shall complete its review. Such inaction by the Department shall not affect the Board's authority to regulate the impounding structure in accordance with this article.

If the Department determines that the plan of development would change the spillway design flood standards of the impounding structure, the locality shall not permit development as defined in § 15.2-2201 or redevelopment in the dam break inundation zone unless the developer or subdivider agrees to alter the plan of development so that it does not alter the spillway design flood standard required of the impounding structure or he contributes payment to the necessary upgrades to the affected impounding structure pursuant to § 15.2-2243.1.

The developer or subdivider shall provide the dam owner and all affected localities with information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

The requirements of this subsection shall not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the locality as of the time of the official submission of a development plan to the locality.

B. The locality is authorized to map the dam break inundation zone in accordance with criteria set out in the Virginia Impounding Structure Regulations (4VAC50-20) and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the locality and a map has not been prepared by the impounding structure owner.

C. This section shall not be construed to supersede or conflict with the authority granted to the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy for the regulation of mineral extraction activities in the Commonwealth as set out in Title 45.1. Nothing in this section shall be interpreted to permit the impairment of a vested right in accordance with § 15.2-2307.

§ 10.1-659. Flood protection programs; coordination.

The provisions of this chapter shall be coordinated with the Virginia Coastal Resilience Master Plan and federal, state, and local flood prevention and water quality programs to minimize loss of life, property damage, and negative impacts on the environment. This program coordination shall include but not be limited to the following: flood prevention, flood plain management, small watershed protection,

dam safety, shoreline erosion and public beach preservation, and soil conservation programs of the Department of Conservation and Recreation; the construction activities of the Department of Transportation, including projects that result in hydrologic modification of rivers, streams, and flood plains; the nontidal wetlands, water quality, Chesapeake Bay Preservation Area criteria, stormwater management, erosion and sediment control, and other water management programs of the State Water Control Board; the Virginia Coastal Zone Management Program at the Department of Environmental Quality; forested watershed management programs of the Department of Forestry; the agricultural stewardship, farmland preservation, and disaster assistance programs of the Department of Agriculture and Consumer Services; the statewide building code and other land use control programs of the Department of Housing and Community Development; the habitat management programs of the Virginia Marine Resources Commission; the hazard mitigation planning and disaster response programs of the Department of Emergency Management; the fish habitat protection programs of the Department of Wildlife Resources; the mineral extraction regulatory program of the Department of ~~Mines, Minerals and~~ Energy; the flood plain restrictions of the Virginia Waste Management Board; flooding-related research programs of the state universities; local government assistance programs of the Virginia Soil and Water Conservation Board; the Virginia Antiquities Act program of the Department of Historic Resources; and any other state agency programs deemed necessary by the Director, the Chief Resilience Officer of the Commonwealth, and the Special Assistant to the Governor for Coastal Adaptation and Protection. The Department shall also coordinate with soil and water conservation districts, Virginia Cooperative Extension agents, and planning district commissions, and shall coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply with the planning, subdivision of land, and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The Director and either the Special Assistant to the Governor for Coastal Adaptation and Protection or the Chief Resilience Officer shall jointly hold meetings of representatives of these programs, entities, and localities in order to determine, coordinate, and prioritize the Commonwealth's efforts and expenditures to increase flooding resilience. The Department shall cooperate with other public and private agencies having flood plain management programs and shall coordinate its responsibilities under this article and any other law. These activities shall constitute the Commonwealth's flood prevention and protection program.

§ 10.1-1194. Watershed Planning and Permitting Coordination Task Force created; membership; duties.

A. There is hereby created the Watershed Planning and Permitting Coordination Task Force, which shall be referred to in this article as the Task Force. The Task Force shall be composed of the Directors, or their designees, of the Department of Environmental Quality, the Department of Conservation and Recreation, the Department of Forestry, the Department of ~~Mines, Minerals and~~ Energy, and the Commissioner, or his designee, of the Department of Agriculture and Consumer Services.

B. The Task Force shall meet at least quarterly on such dates and times as the members determine. A majority of the Task Force shall constitute a quorum.

C. The Task Force shall undertake such measures and activities it deems necessary and appropriate to see that the functions of the agencies represented therein, and to the extent practicable of other agencies of the Commonwealth, and the efforts of state and local agencies and authorities in watershed planning and watershed permitting are coordinated and promoted.

§ 10.1-1329. Definitions.

As used in this article, unless the context requires a different meaning:

"Allowance" means an authorization to emit a fixed amount of carbon dioxide.

"Allowance auction" means an auction in which the Department or its agent offers allowances for sale.

"DHCD" means the Department of Housing and Community Development.

~~"DMME"~~ *"DOE"* means the Department of ~~Mines, Minerals and~~ Energy.

"Energy efficiency program" has the same meaning as provided in § 56-576.

"Fund" means the Virginia Community Flood Preparedness Fund created pursuant to § 10.1-603.25.

"Housing development" means the same as that term is defined in § 36-141.

"Regional Greenhouse Gas Initiative" or "RGGI" means the program to implement the memorandum of understanding between signatory states dated December 20, 2005, and as may be amended, and the corresponding model rule that established a regional carbon dioxide electric power sector cap and trade program.

"Secretary" means the Secretary of Natural Resources.

§ 10.1-1330. Clean Energy and Community Flood Preparedness.

A. The provisions of this article shall be incorporated by the Department, without further action by the Board, into the final regulation adopted by the Board on April 19, 2019, and published in the Virginia Register on May 27, 2019. Such incorporation by the Department shall be exempt from the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq.).

B. The Director is hereby authorized to establish, implement, and manage an auction program to sell

allowances into a market-based trading program consistent with the RGGI program and this article. The Director shall seek to sell 100 percent of all allowances issued each year through the allowance auction, unless the Department finds that doing so will have a negative impact on the value of allowances and result in a net loss of consumer benefit or is otherwise inconsistent with the RGGI program.

C. To the extent permitted by Article X, Section 7 of the Constitution of Virginia, the state treasury shall (i) hold the proceeds recovered from the allowance auction in an interest-bearing account with all interest directed to the account to carry out the purposes of this article and (ii) use the proceeds without further appropriation for the following purposes:

1. Forty-five percent of the revenue shall be credited to the account established pursuant to the Fund for the purpose of assisting localities and their residents affected by recurrent flooding, sea level rise, and flooding from severe weather events.

2. Fifty percent of the revenue shall be credited to an account administered by DHCD to support low-income energy efficiency programs, including programs for eligible housing developments. DHCD shall review and approve funding proposals for such energy efficiency programs, and ~~DMME~~ *DOE* shall provide technical assistance upon request. Any sums remaining within the account administered by DHCD, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in such account to support low-income energy efficiency programs.

3. Three percent of the revenue shall be used to (i) cover reasonable administrative expenses of the Department in the administration of the revenue allocation, carbon dioxide emissions cap and trade program, and auction and (ii) carry out statewide climate change planning and mitigation activities.

4. Two percent of the revenue shall be used by DHCD, in partnership with ~~DMME~~ *DOE*, to administer and implement low-income energy efficiency programs pursuant to subdivision 2.

D. The Department, the Department of Conservation and Recreation, DHCD, and ~~DMME~~ *DOE* shall prepare a joint annual written report describing the Commonwealth's participation in RGGI, the annual reduction in greenhouse gas emissions, the revenues collected and deposited in the interest-bearing account maintained by the Department pursuant to this article, and a description of each way in which money was expended during the fiscal year. The report shall be submitted to the Governor and General Assembly by January 1, 2022, and annually thereafter.

§ 10.1-1406.2. Conditional exemption for coal and mineral mining overburden or solid waste.

The provisions of this chapter shall not apply to coal or mineral mining overburden returned to the mine site or solid wastes from the extraction, beneficiation, and processing of coal or minerals that are managed in accordance with requirements promulgated by the Department of ~~Mines, Minerals and~~ Energy.

§ 11-34.3. Energy Performance-Based Contract Procedures; required contract provisions.

A. Any contracting entity may enter into an energy performance-based contract with an energy performance contractor to significantly reduce energy costs to a level established by the public body or operating costs of a facility through one or more energy conservation or operational efficiency measures. For the purposes of this chapter, energy conservation or operational efficiency measures shall not include roof replacement projects.

B. The energy performance contractor shall be selected through competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2. The evaluation of the request for proposal shall analyze the estimates of all costs of installation, maintenance, repairs, debt service, post installation project monitoring and reporting. Notwithstanding any other provision of law, any contracting entity may purchase energy conservation or operational efficiency measures under an energy performance-based contract entered into by another contracting entity pursuant to this chapter even if it did not participate in the request for proposals if the request for proposals specified that the procurement was being conducted on behalf of other contracting entities.

C. Before entering into a contract for energy conservation measures and facility technology infrastructure upgrades and modernization measures, the contracting entity shall require the performance contractor to provide a payment and performance bond relating to the installation of energy conservation measures and facility technology infrastructure upgrades and modernization measures in the amount the contracting entity finds reasonable and necessary to protect its interests.

D. Prior to the design and installation of the energy conservation measure, the contracting entity shall obtain from the energy performance contractor a report disclosing all costs associated with the energy conservation measure and providing an estimate of the amount of the energy cost savings. After reviewing the report, the contracting entity may enter into an energy performance-based contract if it finds (i) the amount the entity would spend on the energy conservation measures and facility and technology infrastructure upgrades and modernization measures recommended in the report will not exceed the amount to be saved in energy and operation costs more than 20 years from the date of installation, based on life-cycle costing calculations, if the recommendations in the report were followed and (ii) the energy performance contractor provides a written guarantee that the energy and operating

cost savings will meet or exceed the costs of the system. The contract may provide for payments over a period of time not to exceed 20 years.

E. The term of any energy performance-based contract shall expire at the end of each fiscal year but may be renewed annually up to 20 years, subject to the contracting entity making sufficient annual appropriations based upon continued realized cost savings. Such contracts shall stipulate that the agreement does not constitute a debt, liability, or obligation of the contracting entity, or a pledge of the faith and credit of the contracting entity. Such contract may also provide capital contributions for the purchase and installation of energy conservation and facility and technology infrastructure upgrades and modernization measures that cannot be totally funded by the energy and operational savings.

F. An energy performance-based contract shall include the following provisions:

1. A guarantee by the energy performance contractor that annual energy and operational cost savings will meet or exceed the amortized cost of energy conservation measures. The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed within 20 years the costs of the energy and operational savings measures. The qualified provider shall reimburse the contracting entity for any shortfall of guaranteed energy savings projected in the contract.

2. A requirement that the energy performance contractor to whom the contract is awarded provide a 100 percent performance guarantee bond to the contracting entity for the installation and faithful performance of the installed energy savings measures as outlined in the contract document.

3. A requirement that the energy performance contractor provide to the contracting entity an annual reconciliation of the guaranteed energy cost savings. The energy performance contractor shall be liable for any annual savings shortfall that may occur.

G. The Department of ~~Mines, Minerals and~~ Energy (the Department) shall make a reasonable effort, as long as workload permits, to:

1. Provide general advice, upon request, to local governments that wish to consider pursuit of an energy performance-based contract pursuant to this section;

2. Annually compile a list of performance-based contracts entered into by local governments of which the Department may become aware.

§ 15.2-958.3. Financing clean energy, resiliency, and stormwater management programs.

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy, resiliency, or stormwater management improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, resiliency improvements, water usage efficiency improvements, or stormwater management improvements for which loans may be offered. Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in § 28.2-104.1;

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. (i) A minimum and maximum aggregate dollar amount that may be financed with respect to a property and (ii) if a locality or other public body is originating the loan, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body;

4. In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of clauses (i) and (ii); and

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of

another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems, resiliency improvements, or stormwater management improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55.1-2000:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

G. The Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall have the authority to serve as a statewide sponsor for a clean energy financing program that meets the requirements of this section. The Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall engage a private entity through a competitive selection process to develop and administer the program.

§ 15.2-980. Civil penalties for violations of noise ordinances.

Any locality may, by ordinance, adopt a uniform schedule of civil penalties for violations of that locality's noise ordinance. This provision shall not apply to noise generated in connection with the business being performed on industrial property. Civil fines will not exceed $250 for the first offense and $500 for each subsequent offense. The locality may authorize the chief law-enforcement officer to enforce any civil penalties adopted pursuant to the provisions of this section. The provisions of this section shall not apply to railroads. No ordinance of any locality shall apply to sound emanating from any area permitted by the Virginia Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy or any division thereof.

§ 15.2-2224. Surveys and studies to be made in preparation of plan; implementation of plan.

A. In the preparation of a comprehensive plan, the local planning commission shall survey and study such matters as the following:

1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, groundwater and surface water availability, quality, and sustainability, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, dam break inundation zones and potential impacts to downstream properties to the extent that information concerning such information exists and is available to the local planning authority, the transmission of electricity, broadband infrastructure, road improvements, and any estimated cost thereof, transportation facilities, transportation improvements, and any cost thereof, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

However, if a locality chooses not to survey and study historic areas, then the locality shall include historic areas in the comprehensive plan, if such areas are identified and surveyed by the Department of

Historic Resources. Furthermore, if a locality chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of ~~Mines, Minerals and~~ Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.

2. Probable future economic and population growth of the territory and requirements therefor.

B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to:

1. An official map;

2. A capital improvements program;

3. A subdivision ordinance;

4. A zoning ordinance and zoning district maps;

5. A mineral resource map;

6. A recreation and sports resource map; and

7. A map of dam break inundation zones.

§ 23.1-2626. Powers and duties of the Center.

The Center, under the direction of the executive director, shall:

1. Develop a degree program in energy production and conservation research at the master's level in conjunction with the Council;

2. Develop and provide programs of continuing education and in-service training for persons who work in the fields of coal or other energy research, development, or production;

3. Collaborate with other departments of the University, including the Department of Mining and Minerals Engineering;

4. Conduct research in the fields of coal, coal utilization, migrating natural gases such as methane and propane, and other energy-related work;

5. Collect and maintain data on energy production, development, and utilization;

6. Foster the utilization of research information, discoveries, and data;

7. Coordinate the functions of the Center with each of the Center's energy research facilities to prevent duplication of effort;

8. Apply for and accept grants from the federal government, state government, and any other source to carry out the purposes of this article. The Center may comply with such conditions and execute such agreements as may be necessary to accept such grants;

9. Accept gifts, bequests, and any other thing of value to carry out the purposes of this article;

10. Receive, administer, and expend all funds and other assistance made available to the Center to carry out the purposes of this article;

11. Consult with the Division of *Renewable* Energy *and Energy Efficiency* of the Department of ~~Mines, Minerals and~~ Energy in the preparation of the Virginia Energy Plan pursuant to § 67-201; and

12. Do all things necessary or convenient for the proper administration of this article.

§ 23.1-2627. Virginia Coal Research and Development Advisory Board.

The Virginia Coal Research and Development Advisory Board (the Advisory Board) shall serve in an advisory capacity to the executive director of the Center. Representatives to the Advisory Board shall be appointed by the board. The board shall appoint such other individuals as it deems necessary to the work of the Advisory Board.

Members shall include representatives from the Department of Conservation and Recreation, the Department of Small Business and Supplier Diversity, the Department of ~~Mines, Minerals and~~ Energy, the Department of Labor and Industry, the Virginia Port Authority, and each public institution of higher education, excluding the University.

§ 28.2-1208. Granting easements in, permitting the use of, or leasing the beds of certain waters.

A. The Commission may, with the approval of the Attorney General and the Governor, grant easements over or under or lease the beds of the waters of the Commonwealth outside of the Baylor Survey. Every easement or lease executed pursuant to this section shall be for a period not to exceed five years, except in the case of offshore renewable energy leases described in clause (ii), in which case the period shall not exceed 30 years, and shall specify the rent and such other terms deemed expedient and proper. Such easements and leases may include the right to renew the same for an additional period not to exceed five years. Any lease that authorizes grantees or lessees to (i) prospect for and take from the bottoms covered thereby specified minerals and mineral substances or (ii) generate electrical energy from wave or tidal action, currents, offshore winds, or thermal or salinity gradients, and transmit energy from such sources to shore shall require a royalty. Except for offshore renewable energy leases, purchase payment for any easement granted to a public service corporation, certificated telephone company, interstate natural gas company or provider of cable television or other multichannel video programming service shall be $100 and shall be for a period of 40 years. However, no easement or lease shall in any way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning

fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased bottoms or the waters above.

B. All easements granted and leases made pursuant to this section shall be executed for, and in the name and on behalf of, the Commonwealth by the Attorney General and shall be countersigned by the Governor.

C. All mineral royalties collected from such easements or leases on and after July 1, 2000, shall be paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All royalties collected as a result of the generation or transmission of electrical or compressed air energy from offshore renewable sources including wave or tidal action, currents, offshore winds, and thermal or salinity gradients shall be paid into the state treasury and appropriated to the Virginia Coastal Energy Research Consortium established pursuant to § 67-600.

D. Prior to December 1 of each year, the Commissioner and the Attorney General shall make reports to the General Assembly on all easements and leases executed pursuant to this section during the preceding 12 months.

E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy and with the assistance of affected state agencies, departments and institutions, including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in § 2.2-1157 and the Virginia Energy Plan (§ 67-200 et seq.). The State Subaqueous Minerals and Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii) public advertising for competitive bids or proposals for mineral and renewable energy leasing and extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the Governor as required by subsection A. The environmental impact reports shall address, but not be limited to:

1. The environmental impact of the proposed activity;

2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;

3. Measures proposed to minimize the impact of the proposed activity;

4. Any alternative to the proposed activity; and

5. Any irreversible environmental changes which would be involved in the proposed activity.

For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

F. Neither the Commission nor the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall grant any lease, easement, or permit allowing on the beds of any of the coastal waters of the Commonwealth any infrastructure for conveying to shore oil or gas produced from an offshore oil or gas lease in the portion of the Atlantic Ocean identified as the Outer Continental Shelf (OCS) Planning Area by the U.S. Bureau of Ocean Energy Management. For purposes of this section, the term "infrastructure" includes pipelines, gathering systems, processing facilities, and storage facilities. The provisions of this subsection shall not apply to any infrastructure in existence as of July 1, 2020.

§ 30-275. (Contingent expiration date) Manufacturing Development Commission; purpose; membership; terms; compensation and expenses; staff; voting on recommendations.

A. The Manufacturing Development Commission (the Commission) is established in the legislative branch of state government. The purpose of the Commission shall be to assess manufacturing needs and formulate legislative and regulatory remedies to ensure the future of the manufacturing sector in Virginia.

B. The Commission shall have a total membership of 14 that shall consist of eight legislative members, five nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: three members of the Senate, to be appointed by the Senate Committee on Rules; five members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and five nonlegislative citizen members of whom (i) one shall be a representative of a public institution of higher education other than Norfolk State University or Virginia State University, (ii) one shall be a representative of an entity or organization active in economic development efforts in the Commonwealth, (iii) one shall be a representative of a Virginia manufacturer, (iv) one shall be the president of the Virginia Manufacturers Association, and (v) one shall be a representative of Norfolk State University or Virginia State University, to be appointed by the Governor. The Secretary of Commerce and Trade or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth.

Nonlegislative citizen members shall be appointed for terms of four years. Legislative members, the president of the Virginia Manufacturers Association, and ex officio members shall serve terms coincident

with their terms of office. All members may be reappointed for successive terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

C. The members of the Commission shall elect a chairman and a vice-chairman annually, who shall be members of the General Assembly. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at the call of the chairman or whenever a majority of the members so request.

D. Legislative members of the Commission shall receive such compensation as is set forth in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for compensation and reimbursement of expenses of the members shall be provided from existing appropriations to the Commission. Costs of this Commission shall not exceed $12,000 per year.

E. Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of the Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis, and other services as requested by the Commission. Technical assistance shall be provided by the Department of ~~Mines, Minerals and~~ Energy. All agencies of the Commonwealth shall assist the Commission, upon request.

F. No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) votes against the recommendation and (ii) votes for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 33.2-236. Maps or plats prepared at request and expense of local governing bodies and other groups; Department of Energy to seek other existing sources.

The Commissioner of Highways may prepare photogrammetric maps or plats of specific sites or areas at the request of the governing bodies of localities of the Commonwealth, local nonprofit industrial development agencies, planning district commissions, soil and water conservation districts, metropolitan planning organizations, public service authorities, and local chambers of commerce. The Department of ~~Mines, Minerals and~~ Energy shall first review the request to determine whether suitable or alternate maps or plats are currently available, and the local governing body, agency, or chamber shall agree to reimburse the Department of Transportation for the cost of producing the maps or plats.

§ 45.1-161.1. Definitions.

As used in this title, unless the context requires a different meaning:

"Chief" means the Chief of the Division of Mines of the Department of ~~Mines, Minerals and~~ Energy.

"Department" means the Department of ~~Mines, Minerals and~~ Energy.

"Director" means the Director of the Department of ~~Mines, Minerals and~~ Energy.

§ 45.1-161.2. Department continued; appointment of Director.

The Department of ~~Mines, Minerals and~~ Energy is continued as an agency within the Secretariat of Commerce and Trade. The Department shall be headed by a Director who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at his pleasure for a term coincident with his own.

§ 45.1-161.4:1. Appointment of Chief Clean Energy Policy Advisor.

The Chief Clean Energy Policy Advisor shall be appointed by the Governor and shall be under the direction of and report to the Director.

§ 45.1-161.5. Establishment of divisions; division heads.

The following divisions, through which the functions, powers, and duties of the Department may be discharged, are established in the Department: a Division of Mines, a Division of Mined Land ~~Reclamation~~ *Repurposing*, a Division of Geology and Mineral Resources, a Division of Gas and Oil, a Division of Mineral Mining, a Division of *Renewable* Energy *and Energy Efficiency*, and a Division of Offshore Wind. The Director may establish other divisions as he deems necessary. ~~Except as provided in § 45.1-161.15 with respect to the Chief of the Division of Mines, the~~ *The* Director shall appoint persons to direct the various functions and programs of the divisions, and may delegate to the head of any division any of the powers and duties conferred or imposed by law on the Director.

§ 45.1-161.15. Chief of Division of Mines.

~~The Chief shall be appointed by the Governor.~~ The Chief shall be the head of the Division of Mines~~,~~ and shall be under the direction of and shall report to the Director.

§ 45.1-161.179. Posting of notice.

A. The operator, or his agent, shall display, in bold-faced type, on a sign placed at the mine office, bath house, and on a bulletin board at the mine site, the following notice:

NOTICE

IT IS UNLAWFUL FOR A MINER OR OTHER PERSON IN AN UNDERGROUND COAL MINE TO SMOKE OR CARRY OR POSSESS UNDERGROUND ANY SMOKER'S ARTICLES OR

MATCHES, LIGHTERS, OR SIMILAR MATERIALS GENERALLY USED FOR IGNITING SMOKER'S ARTICLES. A VIOLATION IS PUNISHABLE AS A CLASS 6 FELONY. ANY PERSON ENTERING OR PRESENT IN THE UNDERGROUND AREA OF ANY COAL MINE IS SUBJECT TO A SEARCH OF HIS PERSON AND PROPERTY BY OFFICIALS OF THE DEPARTMENT OF MINES, MINERALS AND ENERGY FOR SUCH PROHIBITED SMOKER MATERIALS AT ANY TIME WHILE UNDERGROUND.

B. Beginning October 1, 2021, every new sign displayed in accordance with this section shall refer to the Department of Energy [*rather than to the Department of Mines, Minerals and Energy*] .

§ 45.1-161.292:2. Definitions.

As used in this chapter and in Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.) and in regulations promulgated under such chapters, unless the context requires a different meaning:

"Abandoned area" means the inaccessible area of an underground mine that is sealed or ventilated and in which further mining is not intended.

"Accident" means (i) a death of an individual at a mine; (ii) a serious personal injury; (iii) an entrapment of an individual for more than 30 minutes; (iv) an unplanned inundation of a mine by liquid or gas; (v) an unplanned ignition or explosion of gas or dust; (vi) an unplanned mine fire not extinguished within 30 minutes of discovery; (vii) an unplanned ignition or explosion of a blasting agent or an explosive; (viii) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use; or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage; (ix) a rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour; (x) an unstable condition at an impoundment or refuse pile which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area; or, failure of an impoundment, or refuse pile; (xi) damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than 30 minutes; and (xii) an event at a mine which causes death or bodily injury to an individual not at a mine at the time the event occurs.

"Active areas" means all places in a mine that are ventilated, if underground, and examined regularly.

"Active workings" means any place in a mine where miners are normally required to work or travel.

"Agent" means any person charged by the operator with responsibility for the operation of all or a part of a mine or the supervision of the miners in a mine.

"Approved" means a device, apparatus, equipment, condition, method, course or practice approved in writing by the Director.

"Approved competent person" means a person designated by the Department as having the authority to function as a mine foreman even though the person has less than five years' experience but more than two years' experience. If an approved competent person has met all the criteria for a mine foreman certification other than the experience criteria, he may perform the duties of a mine foreman except the pre-shift examination.

"Armored cable" means a cable provided with a wrapping of metal, plastic or other approved material.

"Authorized person" means a person assigned by the operator or agent to perform a specific type of duty or duties or to be at a specific location or locations in the mine who is task trained in accordance with requirements of the federal mine safety law.

"Blower fan" means a fan with tubing used to direct part of a particular circuit of air to a working place.

"Booster fan" means an underground fan installed in conjunction with a main fan to increase the volume of air in one or more circuits.

"Cable" means a stranded conductor (single-conductor cable) or a combination of conductors insulated from one another (multiple-conductor cable).

"Certified person" means a person holding a valid certificate from the Department authorizing him to perform the task to which he is assigned.

"Circuit" means a conducting part or a system of conducting parts through which an electric current is intended to flow.

"Circuit breaker" means a device for interrupting a circuit between separable contacts under normal or abnormal conditions.

"Competent person" means a person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

"Cross entry" means any entry or set of entries, turned from main entries, from which room entries are turned.

"Department" means the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy.

"Experienced surface miner" means a person with more than six months of experience working at a

surface mine or the surface area of an underground mine.

"Experienced underground miner" means a person with more than six months of underground mining experience.

"Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L. 95-164), and regulations promulgated thereunder.

"Fuse" means an overcurrent protective device with a circuit-opening fusible member directly heated and destroyed by the passage of overcurrent through it.

"Ground" means a conducting connection between an electric circuit or equipment and earth or to some conducting body which serves in place of earth.

"Grounded" means connected to earth or to some connecting body which serves in place of the earth.

"Hazardous condition" means conditions that are likely to cause death or serious personal injury to persons exposed to such conditions.

"Imminent danger" means the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious personal injury before such condition or practice can be abated.

"Inactive mine" means a mine (i) at which coal or minerals have not been excavated or processed, or work, other than examinations by a certified person or emergency work to preserve the mine, has not been performed at an underground mine for a period of 30 days, or at a surface mine for a period of 60 days, (ii) for which a valid license is in effect, and (iii) at which reclamation activities have not been completed.

"Independent contractor" means any person that contracts to perform services or construction at a mine.

"Intake air" means air that has not passed through the last active working place of the split or by the unsealed entrances to abandoned areas and by analysis contains not less than 19.5 percent oxygen nor more than 0.5 percent of carbon dioxide, nor any hazardous quantities of flammable gas nor any harmful amounts of poisonous gas.

"Interested persons" means members of the Mine Safety Committee and other duly authorized representatives of the employees at a mine; federal Mine Safety and Health Administration employees; mine inspectors; and, to the extent required by this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.), any other person.

"Licensed operator" means the operator who has obtained the license for a particular mine under § 45.1-161.292:30.

"Main entry" means the principal entry or set of entries driven through the coal bed or mineral deposit from which cross entries, room entries, or rooms are turned.

"Mine" means any underground mineral mine or surface mineral mine. Mines that are adjacent to each other and under the same management and which are administered as distinct units shall be considered as separate mines. A site shall not be a mine unless the mineral extracted or excavated therefrom is offered for sale or exchange, or used for any other commercial purposes.

"Mine fire" means an unplanned fire not extinguished within 30 minutes of discovery.

"Mine foreman" means a person holding a valid certificate of qualification as a foreman issued by the Department.

"Mine inspector" means a public employee assigned by the Director to make mine inspections as required by this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.), and other applicable laws.

"Miner" means any individual working in a mineral mine.

"Mineral" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

"Mineral mine" means a surface mineral mine or an underground mineral mine.

"Mineral Mine Safety Act" or "Act" shall mean this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.), and shall include any regulations promulgated thereunder, where applicable.

"Operator" means any person who operates, controls or supervises a mine or any independent contractor performing services or construction at such mine.

"Panel entry" means a room entry.

"Permissible" means a device, process, or equipment or method heretofore or hereafter classified by such term by the Mine Safety and Health Administration, when such classification is adopted by the Director, and includes, unless otherwise herein expressly stated, all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the Administration.

"Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned or worked-out areas. Area within a panel shall not be deemed abandoned until inaccessible or sealed.

"Room entry" means any entry or set of entries from which rooms are turned.

"Serious personal injury" means any injury which has a reasonable potential to cause death or any injury other than a sprain or strain which requires an admission to a hospital for 24 hours or more for medical treatment.

"Substation" means an electrical installation containing generating or power-conversion equipment and associated electric equipment and parts, such as switchboards, switches, wiring, fuses, circuit breakers, compensators and transformers.

"Surface mineral mine" means (i) the pit and other active and inactive areas of surface extraction of minerals; (ii) on-site mills, shops, loadout facilities, and related structures appurtenant to the excavation and processing of minerals; (iii) impoundments, retention dams, tailing ponds, and other areas appurtenant to the extraction of minerals from the site; (iv) on-site surface areas for the transportation and storage of minerals excavated at the site; (v) equipment, machinery, tools and other property used in, or to be used in, the work of extracting minerals from the site; (vi) private ways and roads appurtenant to such area; and (vii) the areas used for surface-disturbing exploration (other than by drilling or seismic testing) or preparation of a site for surface mineral extraction activities. A site shall commence being a surface mineral mine upon the beginning of any surface-disturbing exploration activities other than exploratory drilling or seismic testing, and shall cease to be a surface mineral mine upon completion of initial reclamation activities. The surface extraction of a mineral shall not constitute surface mineral mining unless (a) the mineral is extracted for its unique or intrinsic characteristics, or (b) the mineral requires processing prior to its intended use.

"Travel way" means a passage, walk or way regularly used and designated for persons to go from one place to another.

"Underground mineral mine" means (i) the working face and other active and inactive areas of underground excavation of minerals; (ii) underground travel ways, shafts, slopes, drifts, inclines and tunnels connected to such areas; (iii) on-site mills, loadout areas, shops, and related facilities appurtenant to the excavation and processing of minerals; (iv) on-site surface areas for the transportation and storage of minerals excavated at the site; (v) impoundments, retention dams, tailing ponds and waste areas appurtenant to the excavation of minerals from the site; (vi) equipment, machinery, tools, and other property, on the surface or underground, used in, or to be used in, the excavation of minerals from the site; (vii) private ways and roads appurtenant to such area; and (viii) the areas used to prepare a site for underground mineral excavation activities. A site shall commence being an underground mineral mine upon the beginning of any site preparation activity other than exploratory drilling or other exploration activity, and shall cease to be an underground mineral mine upon completion of initial reclamation activities.

"Work area," as used in Chapter 14.4 (§ 45.1-161.253 et seq.), means those areas of a mine in production or being prepared for production and those areas of the mine which may pose a danger to miners at such areas.

"Working face" means any place in a mine in which work of extracting minerals from their natural deposit in the earth is performed during the mining cycle.

"Working place" means the area of an underground mine inby the last open crosscut.

"Working section" means all areas from the loading point of a section to and including the working faces.

§ 45.1-180. Definitions.

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section except where the context clearly requires a different meaning:

(a) Mining. — Means the breaking or disturbing of the surface soil or rock in order to facilitate or accomplish the extraction or removal of minerals; any activity constituting all or part of a process for the extraction or removal of minerals so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction. Nothing herein shall apply to mining of coal. This definition shall not include, nor shall this title, chapter, or section be construed to apply to the process of searching, prospecting, exploring or investigating for minerals by drilling.

(b) Disturbed land. — The areas from which overburden has been removed in any mining operation, plus the area covered by the spoil and refuse, plus any areas used in such mining operation including land used for processing, stockpiling, and settling ponds.

(c) Overburden. — All of the earth and other material which lie above a natural deposit of minerals, ores, rock or other solid matter and also other materials after removal from their natural deposit in the process of mining.

(d) Spoil. — Any overburden or other material removed from its natural state in the process of mining.

(e) Operator. — Any individual, corporation or corporation officer, firm, joint venture, partnership, business trust, association, or any other group or combination acting as a unit, or any legal entity which is engaged in mining. (f) through (i) [Repealed.]

(j) Mining operation. — Any area included in an approved plan of operation.

(k) Reclamation. — The restoration or conversion of disturbed land to a stable condition which minimizes or prevents adverse disruption and the injurious effects thereof and presents an opportunity for further productive use if such use is reasonable.

(l) Mineral. — Ore, rock, and any other solid homogeneous crystalline chemical element or compound that results from the inorganic processes of nature other than coal.

(m) Division. — The Division of ~~Mined Land Reclamation~~ *Mineral Mining*.

(n) Refuse. — All waste soil, rock, mineral tailings, slimes and other material directly connected with the mine, cleaning and preparation of substances mined including all waste material deposited in the permit area from other sources.

§ 45.1-229. Definitions.

The following words and phrases when used in this chapter shall have the meaning respectively ascribed to them in this section except where the context clearly requires a different meaning; the Director shall have the power to adopt by regulation such other definitions as may be deemed necessary to carry out the intent of this chapter.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the Director determines that they are in compliance with the applicable performance standards promulgated pursuant to this chapter.

"Division" means the Division of Mined Land ~~Reclamation~~ *Repurposing*.

"Federal act" means the federal Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, 91 U.S. Stat. 445.

"Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a coal surface mining and reclamation operation, which condition, practice or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

"State regulatory program" or "permanent state regulatory program" means the program established by this chapter meeting the requirements of the federal act for the regulation of coal surface mining and reclamation operations within the Commonwealth, submitted to the Secretary pursuant to § 503 of the federal act.

"Person" means any individual, partnership, association, joint venture, trust, company, firm, joint stock company, corporation, or any other group or combination acting as a unit, or any other legal entity.

"Secretary" means the Secretary of the Interior of the United States.

"State or local agency" means any department, agency or instrumentality of the Commonwealth; or any public authority, municipal corporation, local governmental unit or political subdivision of the Commonwealth; or any department, agency or instrumentality of any public authority, municipal corporation, local governmental unit, political subdivision of the Commonwealth, or two or more of any of the aforementioned.

"Coal surface mining and reclamation operations" means surface mining operations and all activities necessary and incidental to the reclamation of such operations after March 20, 1979.

"Coal surface mining operations" means the following:

1. Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of § 45.1-243, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site; however, such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 2/3 percent of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to § 45.1-233 of this chapter; and

2. The areas upon which such activities occur or where such activities disturb the natural land

surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the chapter due to indifference, lack of diligence, or lack of reasonable care.

"Operator" means any person engaging in coal surface mining operations whether or not such coal is sold within or without the Commonwealth.

"Permit" means a permit issued by the Director pursuant to the approved state regulatory program.

"Permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by § 45.1-241 and shall be readily identifiable by appropriate markers on the site.

"Permittee" means a person holding a permit issued by the Director for coal surface mining pursuant to § 45.1-234, for coal exploration pursuant to § 45.1-233, or for an NPDES permit pursuant to § 45.1-254.

"Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

§ 45.1-230. Authority and duties of Director.

A. The authority to publish and promulgate such regulations as may be necessary to carry out the purposes and provisions of this chapter is hereby vested in the Director. Regulations shall be consistent with regulations promulgated by the Secretary pursuant to the federal act or in conformity to any court ruling construing such act. In promulgating such regulations, the Director shall provide an opportunity for public comment, both oral and written, and shall give public notice of proposed regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and the Virginia Register Act (§ 2.2-4100 et seq.).

A1. In addition to the adoption of regulations under this chapter, the Director may at his discretion issue or distribute to the public interpretative, advisory or procedural bulletins or guidelines pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). The materials shall be clearly designated as to their nature, shall be solely for purposes of public information and education, and shall not have the force of regulations under this chapter or under any other provision of this Code.

B. The authority to administer and enforce the provisions of this chapter is hereby vested in the Director. In administering and enforcing the provisions of this chapter, the Director shall exercise the following powers in addition to any other powers conferred upon him by law:

1. To supervise the administration and enforcement of this chapter; to make investigations and inspections necessary to insure compliance with this chapter; to conduct hearings, administer oaths, issue subpoenas and compel the attendance of witnesses and production of written or printed material as provided for in this chapter; to issue orders and notices of violation; to review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this chapter or any rules and regulations adopted thereunder;

2. To administer the program for the purchase and reclamation of abandoned and unreclaimed mine areas pursuant to Article 4 (§ 45.1-260 et seq.) of this chapter;

3. To encourage and conduct investigations, research, experiments and demonstrations, and to collect and disseminate information relating to coal surface mining and reclamation of lands and waters affected by coal surface mining;

4. To receive any federal or state funds, or any other funds, and to enter into any contracts for which funds are available to carry out the purposes of this chapter;

5. To enter into cooperative agreements with the Secretary to regulate coal surface mining on federal lands.

C. The Division of Mined Land ~~Reclamation~~ *Repurposing* shall have the responsibilities provided under this chapter and such duties and responsibilities as the Director may assign, or as may be provided for in regulations promulgated by the Director.

§ 45.1-270.4:1. Special assessment.

A. In addition to the tax assessed pursuant to § 45.1-270.4, and in order to ensure Fund solvency, the

~~Commissioner~~ *Director* of the Division of Mined Land ~~Reclamation~~ *Repurposing* shall require each permittee to pay any special assessment made pursuant to subsection B of this section.

B. On and after July 1, 1990, the ~~Commissioner~~ *Director* of the Division ~~of Mined Land Reclamation~~ shall assess each permit in the Fund the amount of $500. This assessment shall be made only one time and all revenues collected shall be applied to the balance of the Fund. The permittee shall be responsible for payment of the assessment.

On or after July 1, 1991, the ~~Commissioner~~ *Director* of the Division ~~of Mined Land Reclamation~~ shall assess an amount not to exceed $500,000. The amount of the assessment shall be $250 for each permit participating in the Fund which has completed all mining activity and for which a completion report has been approved. The remaining assessments shall be made in equal amounts per acre for each disturbed acre permitted under the Fund. The amount of disturbed acreage for each permit shall be determined by the most recent anniversary map, or updated anniversary map, submitted by the permittee to the Division ~~of Mined Land Reclamation~~ prior to July 1, 1991. The assessments under this subsection shall not apply to acreage that has been reclaimed and for which an increment of the bond has been transferred to other acreage in the permit. The assessments under this subsection shall be made only one time and all revenues collected shall be applied to the balance of the Fund. The permittee shall be responsible for payment of the assessment.

C. Failure to tender moneys assessed pursuant to the provisions of this section within thirty calendar days of assessment shall constitute a violation of the Virginia Coal Surface Mining Control and Reclamation Act (§ 45.1-226 et seq.). Any civil penalties collected for violations of this section shall be applied to the balance of the Fund.

§ 45.1-361.28. Powers, duties and responsibilities of the Inspector.

A. The Inspector shall administer the laws and regulations and shall have access to all records and properties necessary for this purpose. He shall perform all duties delegated by the Director pursuant to § 45.1-161.5 and maintain permanent records of the following:

1. Each application for a gas, oil, or geophysical operation and each permitted gas, oil, or geophysical operation;

2. Meetings, actions and orders of the Board;

3. Petitions for mining coal within 200 feet of or through a well;

4. Requests for special plugging by a coal owner or coal operator; and

5. All other records prepared pursuant to this chapter.

B. The Inspector *or another Department employee as determined by the Director* shall serve as the principal executive of the staff of the Board.

C. The Inspector may take charge of well or corehole, or pipeline emergency operations whenever a well or corehole blowout, release of hydrogen sulfide or other gases, or other serious accident occurs.

§ 45.1-361.41. Interference by injection wells with ground water supply.

A. Any person who owns or operates an injection well in a manner that proximately causes the contamination or diminution of ground water used for a beneficial use by any person who resides within the lesser of (i) the area of review required by the United States Environmental Protection Agency for the permitting of that injection well, or (ii) a one-half mile radius of the well shall provide the person with a replacement water supply. A replacement water supply shall provide the person or persons with water of equivalent quality and quantity as was provided by ground water prior to the contamination or diminution of the water supply resulting from the operation of the injection well. A replacement water supply shall include the provision of necessary storage and service facilities. "Ground water" shall have the same meaning ascribed to it in § 62.1-255. "Beneficial use" shall have the same meaning ascribed to it in § 62.1-10.

B. This section shall apply to any injection well~~, whether~~ operating under a permit from the Director ~~of the Department of Mines, Minerals and Energy issued prior to, on or after July 1, 1992~~.

§ 45.1-383. Division of Geology and Mineral Resources; State Geologist.

In the Department there shall be a Division of Geology and Mineral Resources~~. The chief executive and head officer of the Division shall be called the~~ *and a* Commissioner of Mineral Resources and State Geologist, hereinafter referred to as the State Geologist. The State Geologist shall be appointed by the Director, shall be a geologist of established reputation and shall receive such compensation as may be provided in accordance with law for the purpose.

§ 45.1-390. Division of Renewable Energy and Energy Efficiency established; findings and policy; powers and duties.

The General Assembly finds that because energy-related issues continually confront the Commonwealth, and many separate agencies are involved in providing energy programs and services, there exists a need for a state organization responsible for coordinating Virginia's energy programs and ensuring Virginia's commitment to the development of renewable and indigenous energy sources, as well as the efficient use of traditional energy resources. In accordance with this need, the Division of *Renewable* Energy *and Energy Efficiency* is created in the Department of ~~Mines, Minerals and~~ Energy.

The Director shall have the immediate authority to coordinate development and implementation of energy policy in Virginia.

The Division shall coordinate the energy-related activities of the various state agencies and advise the Governor on energy issues that arise at the local, state and national levels. All state agencies and institutions shall cooperate fully with the Division to assist in the proper execution of the duties assigned by this section.

In addition, the Division is authorized to make and enter into all contracts and agreements necessary or incidental to the performance of its duties or the execution of its powers, including the implementation of energy information and conservation plans and programs.

The Division shall:

1. Consult with any or all state agencies and institutions concerning energy-related activities or policies as needed for the proper execution of the duties assigned to the Division by this section;

2. Maintain liaison with appropriate agencies of the federal government on the activities of the federal government related to energy production, consumption, transportation and energy resource management in general;

3. Provide services to encourage efforts by and among Virginia businesses, industries, utilities, academic institutions, state and local governments and private institutions to develop energy conservation programs and energy resources;

4. In consultation with the State Corporation Commission, the Department of Environmental Quality, and the Center for Coal and Energy Research, prepare the Virginia Energy Plan pursuant to § 67-201; *and*

5. Observe the energy-related activities of state agencies and advise these agencies in order to encourage conformity with established energy policy~~; and~~

~~6. Serve, pursuant to § 58.1-3660, as the state certifying authority for solar energy projects and for the production of coal, oil, and gas, including gas, natural gas, and coalbed methane gas~~.

§ 56-265.15:1. Exemptions; routine maintenance.

Nothing in this chapter shall apply to:

1. Any hand digging performed by an owner or occupant of a property.

2. The tilling of soil for agricultural purposes.

3. Any excavation done by a railroad when the excavation is made entirely on the land which the railroad owns and on which the railroad operates, provided there is no encroachment on any operator's rights-of-way or easements.

4. An excavation or demolition during an emergency, as defined in § 56-265.15, provided all reasonable precaution has been taken to protect the underground utility lines.

In the case of the state highway systems or streets and roads maintained by political subdivisions, officials of the Department of Transportation or the political subdivision where the use of such highways, roads, streets or other public way is impaired by an unforeseen occurrence shall determine the necessity of repair beginning immediately after the occurrence.

5. Any excavation for routine pavement maintenance, including patch type paving or the milling of pavement surfaces, upon the paved portion of any street, road, or highway of the Commonwealth provided that any such excavation does not exceed a depth of twelve inches (0.3 meter).

6. Any excavation for the purpose of mining pursuant to and in accordance with the requirements of a permit issued by the Department of ~~Mines, Minerals and~~ Energy.

7. Any hand digging performed by an operator to locate the operator's utility lines in response to a notice of excavation from the notification center, provided all reasonable precaution has been taken to protect the underground utility lines.

8. Any installation of a sign that does not involve excavation as defined in § 56-265.15.

§ 56-576. Definitions.

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in

actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

(Expires December 31, 2023) "Business park" means a land development containing a minimum of 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is developed and constructed by an industrial development authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in order to promote business development and that is located in an area of the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Combined heat and power" means a method of using waste heat from electrical generation to offset traditional processes, space heating, air conditioning, or refrigeration.

"Commission" means the State Corporation Commission.

"Community in which a majority of the population are people of color" means a U.S. Census tract where more than 50 percent of the population comprises individuals who identify as belonging to one or more of the following groups: Black, African American, Asian, Pacific Islander, Native American, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but does not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

"Curtailment" means inducing retail customers to reduce load during times of peak demand so as to ease the burden on the electrical grid.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric distribution grid transformation project" means a project associated with electric distribution infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid security, customer service, or energy efficiency and conservation, including advanced metering infrastructure; intelligent grid devices for real time system and asset information; automated control systems for electric distribution circuits and substations; communications networks for service meters; intelligent grid devices and other distribution equipment; distribution system hardening projects for circuits, other than the conversion of overhead tap lines to underground service, and substations designed to reduce service outages or service restoration times; physical security measures at key distribution substations; cyber security measures; energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED street light conversions; and new customer information platforms designed to provide improved customer access, greater service options, and expanded access to energy usage information.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs

include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Historically economically disadvantaged community" means (i) a community in which a majority of the population are people of color or (ii) a low-income geographic area.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs. An order by the Commission (a) finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily sensitive information. In addition, an energy efficiency program may be deemed to be "in the public interest" if the program (1) provides measurable and verifiable energy savings to low-income customers or elderly customers or (2) is a pilot program of limited scope, cost, and duration, that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

"Low-income geographic area" means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household income, or any area in the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Low-income utility customer" means any person or household whose income is no more than 80 percent of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"New underground facilities" means facilities to provide underground distribution service. "New underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted devices, connections at customer meters, and transition terminations from existing overhead distribution sources.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or household participating in any of the following public assistance programs: the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Special Supplemental Nutrition Program for Women, Infants and Children, Virginia Low Income Home Energy Assistance Program, federal Low Income Home Energy Assistance Program, state plan for medical assistance, Medicaid, Housing Choice Voucher Program, or Family Access to Medical Insurance Security Plan.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, non-agricultural, or non-silvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of ~~Mines, Minerals and~~ Energy under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that does not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for an industrial or commercial process.

"Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass. "Renewable energy" does not include waste heat from fossil-fired facilities or electricity generated from pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river facility.

"Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for residential, commercial, institutional, or industrial purposes.

"Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

"Renovated and improved facility" means a facility the components of which have been upgraded to enhance its operating efficiency.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

"Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

"Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer, including host sites on commercial buildings, multifamily residential buildings, school or university buildings, and buildings of a church or religious body.

"Solar energy system" means a system of components that produces heat or electricity, or both, from sunlight.

"Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

"Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a

retail customer.

"Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by electric utility energy efficiency and demand response programs and measures installed in that program year, as well as savings still being achieved by measures and programs implemented in prior years, or (ii) savings attributable to newly installed combined heat and power facilities, including waste heat-to-power facilities, and any associated reduction in transmission line losses, provided that biomass is not a fuel and the total efficiency, including the use of thermal energy, for eligible combined heat and power facilitates must meet or exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.

"Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

"Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

"Waste heat to power" means a system that generates electricity through the recovery of a qualified waste heat resource.

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy under Title 45.1; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating units that do not co-fire with coal.

3. By December 31, 2045, each Phase I and II Utility shall retire all other electric generating units

located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

4. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless of whether such customers purchase electric supply service from the utility or from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, or (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in 2019; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, or falling water electric generating resources in operation, or proposed for operation, in the Commonwealth or physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

The RPS Program requirements shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with the following schedule:

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%

2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%
2031	33%	2031	45%
2032	36%	2032	49%
2033	39%	2033	52%
2034	42%	2034	55%
2035	45%	2035	59%
2036	53%	2036	63%
2037	53%	2037	67%
2038	57%	2038	71%
2039	61%	2039	75%
2040	65%	2040	79%
2041	68%	2041	83%
2042	71%	2042	87%
2043	74%	2043	91%
2044	77%	2044	95%
2045	80%	2045 and thereafter	100%
2046	84%		
2047	88%		
2048	92%		
2049	96%		
2050 and thereafter	100%		

A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects.

Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or

acquisition by such Phase I Utility.

b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I Utility.

d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II Utility.

e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from

sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds $45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to $45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be $75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account administered by the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy. In administering this account, the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in historically economically disadvantaged communities; and (iv)

four percent of total revenue shall be directed to administrative costs.

E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new, utility-owned energy storage resources.

1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may procure a single energy storage project up to 800 megawatts.

4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement protocols established in subdivision D 3.

5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.

F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not recovered from any system customers outside the Commonwealth.

By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to retail customers within the utility's service territory which have elected to receive electric supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing review and approval by the Commission.

G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM region and initially placed in commercial operation after January 1, 2015. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual basis, however, an accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities by the utility pursuant to subsections D and E. To

the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to the Commission individually. The Commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

J. The Commission shall adopt such rules and regulations as may be necessary to implement the provisions of this section, including a requirement that participants verify whether the RPS Program requirements are met in accordance with this section.

§ 56-594.3. Shared solar programs.

A. As used in this section:

"Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill credit.

"Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar facility allocated to a subscriber to offset that subscriber's electricity bill.

"Low-income customer" means any person or household whose income is no more than 80 percent of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Low-income service organization" means a nonresidential customer of an investor-owned utility whose primary purpose is to serve low-income individuals and households.

"Low-income shared solar facility" means a shared solar facility at least 30 percent of the capacity of which is subscribed by low-income customers or low-income service organizations.

"Minimum bill" means an amount determined by the Commission under subsection D that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Shared solar facility" means a facility that:

1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts of alternating current;

2. Is located in the service territory of an investor-owned electric utility;

3. Is connected to the electric distribution grid serving the Commonwealth;

4. Has at least three subscribers;

5. Has at least 40 percent of its capacity subscribed by customers with subscriptions of 25 kilowatts or less; and

6. Is located on a single parcel of land.

"Shared solar program" or "program" means the program created through the adoption of rules to allow for the development of shared solar facilities.

"Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar facility that is interconnected with the utility and (ii) receives service in the service territory of the same utility in whose service territory the shared solar facility is located.

"Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its ownership or operation of a shared solar facility.

"Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's average annual bill for the customer account to which the subscription is attributed.

"Utility" means a Phase II Utility.

B. The Commission shall establish by regulation a program that affords customers of a Phase II Utility the opportunity to participate in shared solar projects. Under its shared solar program, a utility shall provide a bill credit for the proportional output of a shared solar facility attributable to that subscriber. The shared solar program shall be administered as follows:

1. The value of the bill credit for the subscriber shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any amount of the bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to the next month's bill.

2. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

3. The subscriber organization shall, on a monthly basis, in a standardized electronic format, and pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

4. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers. The utility shall apply bill credits to subscriber bills within two billing cycles following the cycle during which the energy was generated by the shared solar facility.

5. Each utility shall, on a monthly basis and in a standardized electronic format, provide to the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

6. A subscriber organization may accumulate bill credits in the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month. On an annual basis and pursuant to guidelines established by the Commission, the subscriber organization shall furnish to the utility allocation instructions for distributing excess bill credits to subscribers.

7. All environmental attributes associated with a shared solar facility, including renewable energy certificates, shall be considered property of the subscriber organization. At the subscriber organization's discretion, such environmental attributes may be distributed to the subscribers, sold to load-serving entities with compliance obligations or other buyers, accumulated, or retired.

C. Each subscriber shall pay a minimum bill, established pursuant to subsection D, and shall receive an applicable bill credit based on the subscriber's customer class of residential, commercial, or industrial. Each class's applicable credit rate shall be calculated by the Commission annually by dividing revenues to the class by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class ($/kWh).

D. The Commission shall establish a minimum bill, which shall include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program. The Commission may modify the minimum bill over time. In establishing the minimum bill, the Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services and (ii) minimize the costs shifted to customers not in a shared solar program. Low-income customers shall be exempt from the minimum bill.

E. The Commission shall approve a shared solar facility program of 150 megawatts with a minimum requirement of 30 percent low-income customers. The Commission shall approve an additional 50 megawatts of capacity upon determining that at least 45 megawatts of the aggregated shared solar capacity in the Commonwealth have been subscribed to by low-income customers. Subscriber organizations shall be allowed to demonstrate compliance with the low income requirement using either project capacity or project savings methodology. The Commission, in collaboration with the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy, may adopt mechanisms to ensure low-income customer participation.

F. The Commission shall establish by regulation a shared solar program that complies with the provisions of subsections B, C, D, and E by January 1, 2021, and shall require each utility to file any tariffs, agreements, or forms necessary for implementation of the program within 60 days of the utility's full implementation of a new customer information platform or by July 1, 2023, whichever occurs first. Any rule or utility implementation filings approved by the Commission shall:

1. Reasonably allow for the creation of shared solar facilities;

2. Allow all customer classes to participate in the program;

3. Create a stakeholder working group including low-income community representatives and

community solar providers to facilitate low-income customer and low-income service organization participation in the program;

4. Encourage public-private partnerships to further the Commonwealth's clean energy and equity goals, such as state agency and affordable housing provider participation in the program as subscribers of shared solar projects;

5. Not remove a customer from its otherwise applicable customer class in order to participate in a shared solar facility;

6. Reasonably allow for the transferability and portability of subscriptions, including allowing a subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same utility's service territory;

7. Establish standards, fees, and processes for the interconnection of shared solar facilities that allow the utility to recover reasonable interconnection costs for each shared solar facility;

8. Adopt standardized consumer disclosure forms;

9. Allow the utility the opportunity to recover reasonable costs of administering the program;

10. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting projects;

11. Address the co-location of two or more shared solar facilities on a single parcel of land and provide guidelines for determining when two or more facilities are co-located;

12. Include a program implementation schedule;

13. Prohibit credit checks as a means of establishing eligibility for residential customers to become subscribers;

14. Require net crediting functionality as part of any new customer information platform approved by the Commission. Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization. The net crediting fee shall not exceed one percent of the bill credit value. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits; and

15. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference between the bill credit provided to the subscriber and the cost of energy injected into the grid by the subscriber organization.

G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar program, a utility shall, provided that the utility has successfully implemented its customer information platform, begin crediting subscriber accounts of each shared solar facility interconnected in its service territory, subject to the requirements of this section and regulations adopted thereto.

§ 56-596.2. Energy efficiency programs; financial assistance for low-income customers.

A. Notwithstanding subsection G of § 56-580, or any other provision of law, each incumbent investor-owned electric utility shall develop proposed energy efficiency programs. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. At least 15 percent of such proposed costs of energy efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

B. Notwithstanding any other provision of law, each investor-owned incumbent electric utility shall implement energy efficiency programs and measures to achieve the following total annual energy savings:

1. For Phase I electric utilities:

a. In calendar year 2022, at least 0.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 1.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 1.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

d. In calendar year 2025, at least 2.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

2. For Phase II electric utilities:

a. In calendar year 2022, at least 1.25 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 2.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 3.75 percent of the average annual energy jurisdictional retail sales

by that utility in 2019; and

d. In calendar year 2025, at least 5.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

3. For the time period 2026 through 2028, and for every successive three-year period thereafter, the Commission shall establish new energy efficiency savings targets. In advance of the effective date of such targets, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets. As part of such proceeding, the Commission shall consider the feasibility of achieving energy efficiency goals and future energy efficiency savings through cost-effective programs and measures. The Commission shall annually review the feasibility of the energy efficiency program savings in this section and report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and the Secretary of Natural Resources and the Secretary of Commerce and Trade on such feasibility by October 1, 2022, and each year thereafter.

D. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

§ 58.1-439.2. Coalfield employment enhancement tax credit.

A. For tax years beginning on and after January 1, 1996, but before January 1, 2017, and on and after January 1, 2018, but before January 1, 2023, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:

1. For metallurgical coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:

Seam Thickness	Credit per Ton
36" and under	$2.00
Above 36"	$1.00

The seam thickness shall be based on the weighted average isopach mapping of actual metallurgical coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the person qualifying for the credit under this section for a period of three years after the credit is applied for and received and shall be available for inspection by the Department of Taxation. The Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy is hereby authorized to audit all information upon which the isopach mapping is based.

2. For metallurgical coal mined by surface mining methods, a credit in the amount of 40 cents ($0.40) per ton for coal sold in 1996, and each year thereafter.

B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1, 1996, but before January 1, 2023, any person who is a producer of coalbed methane shall be allowed a credit in the amount of one cent ($0.01) per million BTUs of coalbed methane produced in the Commonwealth against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth on such person.

C. For purposes of this section, economic interest is the same as the economic ownership interest required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party who only receives an arm's length royalty shall not be considered as having an economic interest in coal mined in the Commonwealth.

D. If the credit exceeds the person's state tax liability for the tax year, the excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 90 percent of the face value within 90 days after filing the return; however, for credit earned in tax years beginning on and after January 1, 2002, such excess shall be redeemable by the Tax Commissioner on behalf of the Commonwealth for 85 percent of the face value within 90 days after filing the return. The remaining 10 or 15 percent of the value of the credit being redeemed, as applicable for such tax year, shall be deposited by the Commissioner in a regional economic development fund administered by the Virginia Coalfield Economic Development Authority to be used for regional economic diversification in accordance with guidelines developed by the Virginia Coalfield Economic Development Authority and the Virginia Economic Development Partnership.

E. No person may utilize more than one of the credits on a given ton of coal described in subsection A. No person may claim a credit pursuant to this section for any ton of coal for which a credit has been claimed under § 58.1-433.1 or 58.1-2626.1. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1, 1999, and only one year of credits shall be allowed annually beginning in 1999.

F. The amount of credit allowed pursuant to subsection A shall be the amount of credit earned multiplied by the person's employment factor. The person's employment factor shall be the percentage obtained by dividing the total number of coal mining jobs of the person filing the return, including the jobs of the contract operators of such person, as reflected in the annual tonnage reports filed with the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy for the year in which the credit was earned by the total

number of coal mining jobs of such persons or operators as reflected in the annual tonnage reports for the year immediately prior to the year in which the credit was earned. In no case shall the credit claimed exceed that amount set forth in subsection A.

G. The tax credit allowed under this section shall be claimed in the third taxable year following the taxable year in which the credit was earned and allowed.

H. As used in this section, "metallurgical coal" means bituminous coal used for the manufacture of iron and steel with calorific value of 14,000 BTUs or greater on a moisture and ash free basis.

§ 58.1-439.12:02. Biodiesel and green diesel fuels producers tax credit.

A. For purposes of this section:

"Biodiesel fuel" means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D6751.

"Green diesel fuel" means a fuel produced from nonfossil renewable resources including agricultural or silvicultural plants, animal fats, residue and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, and meeting applicable ASTM specifications.

"Feedstock" means the agricultural or other renewable resources, whether plant or animal derived, used to produce biodiesel or green diesel fuels.

"Producer" means any person, entity, or agricultural cooperative association, as defined in the Agricultural Cooperative Association Act (§ 13.1-312 et seq.) that, in a calendar year, produces in the Commonwealth up to two million gallons of biodiesel or green diesel fuels using feedstock originating domestically within the United States.

B. For taxable years beginning on or after January 1, 2008, any taxpayer who is a biodiesel fuel or green diesel fuel producer shall be entitled to a nonrefundable credit against the taxes imposed by § 58.1-320 or 58.1-400 in an amount equal to $0.01 per gallon of biodiesel or green diesel fuels produced by such taxpayer. However, the annual amount of the credit shall not exceed $5,000. The taxpayer shall be eligible for the credit during the first three years of production of biodiesel or green diesel fuels.

Any taxpayer entitled to a credit under this section may transfer unused but otherwise allowable credits for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of the credit in accordance with this section shall file a notification of such transfer to the Department of Taxation in accordance with procedures and forms prescribed by the Tax Commissioner.

C. The Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall certify that the biodiesel or green diesel fuels producer has satisfied the requirements of this section for the taxable year in which the credit is allowed. In addition, the taxpayer shall submit with his income tax return all documentation as required by the Department of Taxation. Any credit not usable for the taxable year may be carried over the next three taxable years. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year.

D. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

§ 58.1-3660. Certified pollution control equipment and facilities.

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

"Certified pollution control equipment and facilities" means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, except that in the case of equipment, facilities, devices, or other property intended for use by any political subdivision in conjunction with the operation of its water, wastewater, stormwater, or solid waste management facilities or systems, including property that may be financed pursuant to Chapter 22 (§ 62.1-224 et seq.) of Title 62.1, the state certifying authority having jurisdiction with respect to such property shall, upon the request of the political subdivision, make such certification prospectively for property to be constructed, reconstructed, erected, or acquired for such purposes. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other

vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. All such property as described in this definition shall not include the land on which such equipment or facilities are located.

"State certifying authority" means the State Water Control Board or the Virginia Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of ~~Mines, Minerals and~~ Energy, for solar energy projects and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

C. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018, for projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity, and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019.

D. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall not apply to any such project unless an application has been filed with the locality for the project before July 1, 2030, regardless of whether a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization, shall be 80 percent of the assessed value when an application has been filed with the locality prior to July 1, 2030. For purposes of this subsection, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.

E. For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds.

F. Notwithstanding any provision to the contrary, for any solar photovoltaic project described in clauses (iii) and (v) of subsection C for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019, the amount of the exemption shall be as follows: 80 percent of the assessed value in the first five years in service after commencement of commercial operation, 70 percent of the assessed value in the second five years in service, and 60 percent of the assessed value for all remaining years in service.

§ 58.1-3706. Limitation on rate of license taxes.

A. Except as specifically provided in this section and except for the fee authorized in § 58.1-3703, no local license tax imposed pursuant to the provisions of this chapter, except §§ 58.1-3712 and 58.1-3713, or any other provision of this title or any charter, shall be imposed on any person whose gross receipts from a business, profession or occupation subject to licensure are less than: (i) $100,000

in any locality with a population greater than 50,000; or (ii) $50,000 in any locality with a population of 25,000 but no more than 50,000. Any business with gross receipts of more than $100,000, or $50,000, as applicable, may be subject to the tax at a rate not to exceed the rate set forth below for the class of enterprise listed:

1. For contracting, and persons constructing for their own account for sale, sixteen cents per $100 of gross receipts;

2. For retail sales, twenty cents per $100 of gross receipts;

3. For financial, real estate and professional services, fifty-eight cents per $100 of gross receipts; and

4. For repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this section, thirty-six cents per $100 of gross receipts.

The rate limitations prescribed in this section shall not be applicable to license taxes on (i) wholesalers, which shall be governed by § 58.1-3716; (ii) public service companies, which shall be governed by § 58.1-3731; (iii) carnivals, circuses and speedways, which shall be governed by § 58.1-3728; (iv) fortune-tellers, which shall be governed by § 58.1-3726; (v) massage parlors; (vi) itinerant merchants or peddlers, which shall be governed by § 58.1-3717; (vii) permanent coliseums, arenas, or auditoriums having a maximum capacity in excess of 10,000 persons and open to the public, which shall be governed by § 58.1-3729; (viii) savings institutions and credit unions, which shall be governed by § 58.1-3730; (ix) photographers, which shall be governed by § 58.1-3727; and (x) direct sellers, which shall be governed by § 58.1-3719.1.

B. Any county, city or town which had, on January 1, 1978, a license tax rate, for any of the categories listed in subsection A, higher than the maximum prescribed in subsection A may maintain a higher rate in such category, but no higher than the rate applicable on January 1, 1978, subject to the following conditions:

1. A locality may not increase a rate on any category which is at or above the maximum prescribed for such category in subsection A.

2. If a locality increases the rate on a category which is below the maximum, it shall apply all revenue generated by such increase to reduce the rate on a category or categories which are above such maximum.

3. A locality shall lower rates on categories which are above the maximums prescribed in subsection A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year thereafter, than the revenue base for such year. The revenue base for tax year 1981 shall be the amount of revenue received from all categories in tax year 1980, plus one-third of the amount, if any, by which such revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The revenue base for each tax year after 1981 shall be the revenue base of the preceding tax year plus one-third of the increase in the revenues of the subsequent tax year over the revenue base of the preceding tax year. If in any tax year the amount of revenues received from all categories exceeds the revenue base for such year, the rates shall be adjusted as follows: The revenues of those categories with rates at or below the maximum shall be subtracted from the revenue base for such year. The resulting amount shall be allocated to the category or categories with rates above the maximum in a manner determined by the locality, and divided by the gross receipts of such category for the tax year. The resulting rate or rates shall be applicable to such category or categories for the second tax year following the year whose revenue was used to make the calculation.

C. Any person engaged in the short-term rental business as defined in § 58.1-3510.4 shall be classified in the category of retail sales for license tax rate purposes.

D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences shall be subject to a license tax rate not to exceed three cents per $100 of such federal funds received in payment of such contracts upon documentation provided by such person, firm or corporation to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

2. Any gross receipts properly reported to a Virginia locality, classified for license tax purposes by that locality in accordance with subdivision 1 of this subsection, and on which a license tax is due and paid, or which gross receipts defined by subdivision 1 of this subsection are properly reported to but exempted by a Virginia locality from taxation, shall not be subject to local license taxation by any other locality in the Commonwealth.

3. Notwithstanding the provisions of subdivision D 1, in any county operating under the county manager plan of government, the following shall govern the taxation of the licensees described in subdivision D 1. Persons, firms, or corporations designated as the principal or prime contractors receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic

systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences may be separately classified by any such county and subject to tax at a license tax rate not to exceed the limits set forth in subsections A through C above as to such federal funds received in payment of such contracts upon documentation provided by such persons, firms, or corporations to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

E. In any case in which the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy determines that the weekly U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense District — Lower Atlantic Region) has increased by 20% or greater in any one-week period over the immediately preceding one-week period and does not fall below the increased rate for at least 28 consecutive days immediately following the week of such increase, then, notwithstanding any tax rate on retailers imposed by the local ordinance, the gross receipts taxes on fuel sales of a gas retailer made in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales made by such retailer in the license year of such increase. For license years beginning on or after January 1, 2006, every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such records available upon request by the local tax official.

The provisions of this subsection shall not apply to any person or entity (i) not conducting business as a gas retailer in the county, city, or town for the entire license year immediately preceding the license year of such increase or (ii) that was subject to a license fee in the county, city, or town pursuant to § 58.1-3703 for the license year immediately preceding the license year of such increase.

The Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall determine annually if such increase has occurred and remained in effect for such 28-day period.

§ 58.1-3745. Lien on real estate and personal property of businesses severing coal.

There shall be a priority lien upon a debtor's estate for all taxes due and owing under the authority granted by this chapter. Such lien shall be inferior only to real estate and personal property taxes, levies, and penalties; any obligation, bond, or instrument used in lieu of a bond to the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy under Title 45.1; and liens benefiting the Commonwealth. This lien shall not require a distraint action prior to enforcement.

The purchaser at a sale of real estate to which the lien under this section applies shall cause the proceeds of such sale to be applied to the payment of all taxes and levies assessed and due under the authority granted by this chapter, the provisions of § 55.1-324 notwithstanding. The words "taxes" and "levies" as used in this section include the penalties and interest accruing on such taxes and levies in pursuance of law. In addition to existing remedies for the collection of taxes and levies, the lien imposed hereby shall be enforceable in the same manner as provided in Article 4 (§ 58.1-3965 et seq.) of Chapter 39. There shall be a further lien upon the rents of such real estate, whether the same be in money or in kind, for taxes and levies of the current year.

§ 62.1-44.15:21. Impacts to wetlands.

A. Permits shall address avoidance and minimization of wetland impacts to the maximum extent practicable. A permit shall be issued only if the Board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

B. Permits shall contain requirements for compensating impacts on wetlands. Such compensation requirements shall be sufficient to achieve no net loss of existing wetland acreage and functions and may be met through (i) wetland creation or restoration, (ii) purchase or use of mitigation bank credits pursuant to § 62.1-44.15:23, (iii) contribution to the Wetland and Stream Replacement Fund established pursuant to § 62.1-44.15:23.1 to provide compensation for impacts to wetlands, streams, or other state waters that occur in areas where neither mitigation bank credits nor credits from a Board-approved fund that have met the success criteria are available at the time of permit application, or (iv) contribution to a Board-approved fund dedicated to achieving no net loss of wetland acreage and functions. The Board shall evaluate the appropriate compensatory mitigation option on a case-by-case basis with consideration for which option is practicable and ecologically and environmentally preferable, including, in terms of replacement of acreage and functions, which option offers the greatest likelihood of success and avoidance of temporal loss of acreage and function. This evaluation shall be consistent with the U.S. Army Corps of Engineers Compensatory Mitigation for Losses of Aquatic Resources (33 C.F.R. Part 332). When utilized in conjunction with creation, restoration, or mitigation bank credits, compensation may incorporate (a) preservation or restoration of upland buffers adjacent to wetlands or other state waters or (b) preservation of wetlands.

C. The Board shall utilize the U.S. Army Corps of Engineers' "Wetlands Delineation Manual, Technical Report Y-87-1, January 1987, Final Report" as the approved method for delineating wetlands. The Board shall adopt appropriate guidance and regulations to ensure consistency with the U.S. Army Corps of Engineers' implementation of delineation practices. The Board shall also adopt guidance and regulations for review and approval of the geographic area of a delineated wetland. Any such approval

of a delineation shall remain effective for a period of five years; however, if the Board issues a permit pursuant to this article for an activity in the delineated wetland within the five-year period, the approval shall remain effective for the term of the permit. Any delineation accepted by the U.S. Army Corps of Engineers as sufficient for its exercise of jurisdiction pursuant to § 404 of the Clean Water Act shall be determinative of the geographic area of that delineated wetland.

D. The Board shall develop general permits for such activities in wetlands as it deems appropriate. General permits shall include such terms and conditions as the Board deems necessary to protect state waters and fish and wildlife resources from significant impairment. The Board is authorized to waive the requirement for a general permit or deem an activity in compliance with a general permit when it determines that an isolated wetland is of minimal ecological value. The Board shall develop general permits for:

1. Activities causing wetland impacts of less than one-half of an acre;

2. Facilities and activities of utilities and public service companies regulated by the Federal Energy Regulatory Commission or State Corporation Commission, except for construction of any natural gas transmission pipeline that is greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)). No Board action on an individual or general permit for such facilities shall alter the siting determination made through Federal Energy Regulatory Commission or State Corporation Commission approval. The Board and the State Corporation Commission shall develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1, and 56-580 to ensure that consultation on wetland impacts occurs prior to siting determinations;

3. Coal, natural gas, and coalbed methane gas mining activities authorized by the Department of ~~Mines, Minerals and~~ Energy, and sand mining;

4. Virginia Department of Transportation or other linear transportation projects; and

5. Activities governed by nationwide or regional permits approved by the Board and issued by the U.S. Army Corps of Engineers. Conditions contained in the general permits shall include, but not be limited to, filing with the Board any copies of preconstruction notification, postconstruction report, and certificate of compliance required by the U.S. Army Corps of Engineers.

E. Within 15 days of receipt of an individual permit application, the Board shall review the application for completeness and either accept the application or request additional specific information from the applicant. Provided the application is not administratively withdrawn, the Board shall, within 120 days of receipt of a complete application, issue the permit, issue the permit with conditions, deny the permit, or decide to conduct a public meeting or hearing. If a public meeting or hearing is held, it shall be held within 60 days of the decision to conduct such a proceeding, and a final decision as to the permit shall be made within 90 days of completion of the public meeting or hearing. A permit application may be administratively withdrawn from processing by the Board if the application is incomplete or for failure by the applicant to provide the required information after 60 days from the date of the latest written information request made by the Board. Such administrative withdrawal shall occur after the Board has provided (i) notice to the applicant and (ii) an opportunity for an informal fact-finding proceeding pursuant to § 2.2-4019. An applicant may request a suspension of application review by the Board. A submission by the applicant making such a request shall not preclude the Board from administratively withdrawing an application. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee and may be subject to additional notice requirements. In addition, for an individual permit application related to an application to the Federal Energy Regulatory Commission for a certificate of public convenience and necessity pursuant to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) for construction of any natural gas transmission pipeline greater than 36 inches inside diameter, the Board shall complete its consideration within the one-year period established under 33 U.S.C. § 1341(a).

F. Within 15 days of receipt of a general permit coverage application, the Board shall review the application for completeness and either accept the application or request additional specific information from the applicant. Provided the application is not administratively withdrawn, the Board shall, within 45 days of receipt of a complete application, deny, approve, or approve with conditions any application for coverage under a general permit within 45 days of receipt of a complete preconstruction application. The application shall be deemed approved if the Board fails to act within 45 days. A permit coverage application may be administratively withdrawn from processing by the Board if the application is incomplete or for failure by the applicant to provide the required information after 60 days from the date of the latest written application request made by the Board. Such administrative withdrawal shall occur after the Board has provided (i) notice to the applicant and (ii) an opportunity for an informal fact-finding proceeding pursuant to § 2.2-4019. An applicant may request suspension of an application review by the Board. A submission by the applicant making such a request shall not preclude the Board

from administratively withdrawing an application. Resubmittal of a permit coverage application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee and may be subject to additional notice requirements.

G. No Virginia Water Protection Permit shall be required for impacts to wetlands caused by activities governed under Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 or normal agricultural activities or normal silvicultural activities. This section shall also not apply to normal residential gardening, lawn and landscape maintenance, or other similar activities that are incidental to an occupant's ongoing residential use of property and of minimal ecological impact. The Board shall develop criteria governing this exemption and shall specifically identify the activities meeting these criteria in its regulations.

H. No Virginia Water Protection Permit shall be required for impacts caused by the construction or maintenance of farm or stock ponds, but other permits may be required pursuant to state and federal law. For purposes of this exclusion, farm or stock ponds shall include all ponds and impoundments that do not fall under the authority of the Virginia Soil and Water Conservation Board pursuant to Article 2 (§ 10.1-604 et seq.) of Chapter 6 pursuant to normal agricultural or silvicultural activities.

I. No Virginia Water Protection Permit shall be required for wetland and open water impacts to a stormwater management facility that was created on dry land for the purpose of conveying, treating, or storing stormwater, but other permits may be required pursuant to local, state, or federal law. The Department shall adopt guidance to ensure that projects claiming this exemption create no more than minimal ecological impact.

J. An individual Virginia Water Protection Permit shall be required for impacts to state waters for the construction of any natural gas transmission pipeline greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)). For purposes of this subsection:

1. Each wetland and stream crossing shall be considered as a single and complete project; however, only one individual Virginia Water Protection Permit addressing all such crossings shall be required for any such pipeline. Notwithstanding the requirement for only one such individual permit addressing all such crossings, individual review of each proposed water body crossing with an upstream drainage area of five square miles or greater shall be performed.

2. All pipelines shall be constructed in a manner that minimizes temporary and permanent impacts to state waters and protects water quality to the maximum extent practicable, including by the use of applicable best management practices that the Board determines to be necessary to protect water quality.

3. The Department shall assess an administrative charge to any applicant for such project to cover the direct costs of services rendered associated with its responsibilities pursuant to this subsection. This administrative charge shall be in addition to any fee assessed pursuant to § 62.1-44.15:6.

§ 62.1-44.15:66. No limitation on authority of Department of Energy.

The provisions of this article shall not limit the powers or duties of the Department of ~~Mines, Minerals and~~ Energy as they relate to ~~strip~~ mine reclamation under Chapters 16 (§ 45.1-180 et seq.) and 19 (§ 45.1-226 et seq.) of Title 45.1 or oil or gas exploration under the Virginia Gas and Oil Act (§ 45.1-361.1 et seq.).

§ 62.1-195.1. Chesapeake Bay; drilling for oil or gas prohibited.

A. Notwithstanding any other law, a person shall not drill for oil or gas in the waters of the Chesapeake Bay or any of its tributaries. In Tidewater Virginia, as defined in § 62.1-44.15:68, a person shall not drill for oil or gas in, whichever is the greater distance, as measured landward of the shoreline:

1. Those Chesapeake Bay Preservation Areas, as defined in § 62.1-44.15:68, which a local government designates as "Resource Protection Areas" and incorporates into its local comprehensive plan. "Resource Protection Areas" shall be defined according to the criteria developed by the State Water Control Board pursuant to § 62.1-44.15:72; or

2. Five hundred feet from the shoreline of the waters of the Chesapeake Bay or any of its tributaries.

B. In the event that any person desires to drill for oil or gas in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A, he shall submit to the Department of ~~Mines, Minerals and~~ Energy as part of his application for permit to drill an environmental impact assessment. The environmental impact assessment shall include:

1. The probabilities and consequences of accidental discharge of oil or gas into the environment during drilling, production, and transportation on:

a. Finfish, shellfish, and other marine or freshwater organisms;

b. Birds and other wildlife that use the air and water resources;

c. Air and water quality; and

d. Land and water resources;

2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and

3. An examination of the secondary environmental effects of induced economic development due to the drilling and production.

C. Upon receipt of an environmental impact assessment, the Department of ~~Mines, Minerals and~~ Energy shall notify the Department of Environmental Quality to coordinate a review of the environmental impact assessment. The Department of Environmental Quality shall:

1. Publish in the Virginia Register of Regulations a notice sufficient to identify the environmental impact assessment and providing an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than 30 days from the date of publication;

2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to the Department of Environmental Quality; and

3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department of ~~Mines, Minerals and~~ Energy, within 90 days after notification and receipt of the environmental impact assessment from the Department.

D. The Department of ~~Mines, Minerals and~~ Energy may not grant a permit under § 45.1-361.29 until it has considered the findings and recommendations of the Department of Environmental Quality.

E. The Department of Environmental Quality shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 2.2-4000 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.

F. A person may drill an exploratory well or a gas well in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A only if:

1. For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;

2. The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both of which have been filed with and approved by the State Water Control Board. For purposes of this section, the oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare and property that may result from discharge or accidental release;

3. All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside of those areas described in subsection A;

4. The drilling site is stabilized with boards or gravel or other materials which will result in minimal amounts of runoff;

5. Persons certified in blowout prevention are present at all times during drilling;

6. Conductor pipe is set as necessary from the surface;

7. Casing is set and pressure grouted from the surface to a point at least 2500 feet below the surface or 300 feet below the deepest known ground water, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;

8. Freshwater-based drilling mud is used during drilling;

9. There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids or other contaminated fluids;

10. Multiple blow-out preventers are employed; and

11. The person complies with all requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 and regulations promulgated thereunder.

G. The provisions of subsection A and subdivisions F 1 and 4 through 9 shall be enforced consistent with the requirements of Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1.

H. In the event that exploration activities in Tidewater Virginia result in a finding by the Director of the Department of ~~Mines, Minerals and~~ Energy that production of commercially recoverable quantities of oil is likely and imminent, the Director of the Department of ~~Mines, Minerals and~~ Energy shall notify the Secretary of Commerce and Trade and the Secretary of Natural Resources. At that time, the Secretaries shall develop a joint report to the Governor and the General Assembly assessing the environmental risks and safeguards; transportation issues; state-of-the-art oil production well technology; economic impacts; regulatory initiatives; operational standards; and other matters related to the production of oil in the region. No permits for oil production wells shall be issued until (i) the Governor has had an opportunity to review the report and make recommendations, in the public interest, for legislative and regulatory changes, (ii) the General Assembly, during the next upcoming regular session, has acted on the Governor's recommendations or on its own initiatives, and (iii) any resulting legislation has become effective. The report by the Secretaries and the Governor's recommendations shall be completed within 18 months of the findings of the Director of the Department of ~~Mines, Minerals and~~

Energy.

§ 62.1-243. Withdrawals for which surface water withdrawal permit not required.

A. No surface water withdrawal permit shall be required for (i) any nonconsumptive use, (ii) any water withdrawal of less than 300,000 gallons in any single month, (iii) any water withdrawal from a farm pond collecting diffuse surface water and not situated on a perennial stream as defined in the United States Geological Survey 7.5-minute series topographic maps, (iv) any withdrawal in any area which has not been declared a surface water management area, or (v) any withdrawal from a wastewater treatment system permitted by the State Water Control Board or the Department of ~~Mines, Minerals and~~ Energy.

B. No political subdivision or investor-owned water company permitted by the Department of Health shall be required to obtain a surface water withdrawal permit for:

1. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

2. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawal; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

3. Any withdrawal in existence on July 1, 1989, from an instream impoundment of water used for public water supply purposes; however, during periods when permit conditions in a surface water management area are in force under regulations adopted by the Board pursuant to § 62.1-249, and when the rate of flow of natural surface water into the impoundment is equal to or less than the average flow of natural surface water at that location, the Board may require the release of water from the impoundment at a rate not exceeding the existing rate of flow of natural surface water into the impoundment.

Withdrawals by a political subdivision or investor-owned water company permitted by the Department of Health shall be affected by subdivision 3 of subsection B only at the option of that political subdivision or investor-owned water company.

To qualify for any exemption in subsection B of this section, the political subdivision making the withdrawal, or the political subdivision served by an authority making the withdrawal, shall have instituted a water conservation program approved by the Board which includes: (i) use of water saving plumbing fixtures in new and renovated plumbing as provided under the Uniform Statewide Building Code; (ii) a water loss reduction program; (iii) a water use education program; and (iv) ordinances prohibiting waste of water generally and providing for mandatory water use restrictions, with penalties, during water shortage emergencies. The Board shall review all such water conservation programs to ensure compliance with (i) through (iv) of this paragraph.

C. No existing beneficial consumptive user shall be required to obtain a surface water withdrawal permit for:

1. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

2. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawal; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

To qualify for either exemption in subsection C of this section, the beneficial consumptive user shall have instituted a water management program approved by the Board which includes: (i) use of water-saving plumbing; (ii) a water loss reduction program; (iii) a water use education program; and (iv) mandatory reductions during water shortage emergencies. However, these reductions shall be on an equitable basis with other uses exempted under subsection B of this section. The Board shall review all such water management programs to ensure compliance with (i) through (iv) of this paragraph.

D. The Board shall issue certificates for any withdrawals exempted pursuant to subsections B and C of this section. Such certificates shall include conservation or management programs as conditions thereof.

§ 62.1-256. Duties of Board.

The Board shall have the following duties and powers:

1. To issue ground water withdrawal permits in accordance with regulations adopted by the Board;

2. To issue special orders as provided in § 62.1-268;

3. To study, investigate and assess ground water resources and all problems concerned with the quality and quantity of ground water located wholly or partially in the Commonwealth, and to make

such reports and recommendations as may be necessary to carry out the provisions of this chapter;

4. To require any person withdrawing ground water for any purpose anywhere in the Commonwealth, whether or not declared to be a ground water management area, to furnish to the Board such information with regard to such ground water withdrawal and the use thereof as may be necessary to carry out the provisions of this chapter, excluding ground water withdrawals occurring in conjunction with activities related to exploration for and production of oil, gas, coal or other minerals regulated by the Department of ~~Mines, Minerals and~~ Energy;

5. To prescribe and enforce requirements that naturally flowing wells be plugged or destroyed, or be capped or equipped with valves so that flow of ground water may be completely stopped when said ground water is not currently being applied to a beneficial use;

6. To enter at reasonable times and under reasonable circumstances, any establishment or upon any property, public or private, for the purposes of obtaining information, conducting surveys or inspections, or inspecting wells and springs, and to duly authorize agents to do the same, to ensure compliance with any permits, standards, policies, rules, regulations, rulings and special orders which it may adopt, issue or establish to carry out the provisions of this chapter;

7. To issue special exceptions pursuant to § 62.1-267;

8. To adopt such regulations as it deems necessary to administer and enforce the provisions of this chapter; and

9. To delegate to its Executive Director any of the powers and duties invested in it to administer and enforce the provisions of this chapter except the adoption and promulgation of rules, standards or regulations; the revocation of permits; and the issuance, modification, or revocation of orders except in case of an emergency as provided in subsection B of § 62.1-268.

§ 62.1-259. Certain withdrawals; permit not required.

No ground water withdrawal permit shall be required for (i) withdrawals of less than 300,000 gallons a month; (ii) temporary construction dewatering; (iii) temporary withdrawals associated with a state-approved ground water remediation; (iv) the withdrawal of ground water for use by a ground water heat pump where the discharge is reinjected into the aquifer from which it is withdrawn; (v) the withdrawal from a pond recharged by ground water without mechanical assistance; (vi) the withdrawal of water for geophysical investigations, including pump tests; (vii) the withdrawal of ground water coincident with exploration for and extraction of coal or activities associated with coal mining regulated by the Department of ~~Mines, Minerals and~~ Energy; (viii) the withdrawal of ground water coincident with the exploration for or production of oil, gas or other minerals other than coal, unless such withdrawal adversely impacts aquifer quantity or quality or other ground water users within a ground water management area; (ix) the withdrawal of ground water in any area not declared a ground water management area; or (x) the withdrawal of ground water pursuant to a special exception issued by the Board.

§ 63.2-805. Home Energy Assistance Program; report; survey.

A. The General Assembly declares that it is the policy of this Commonwealth to support the efforts of public agencies, private utility service providers, and charitable and community groups seeking to assist low-income Virginians in meeting their residential energy needs. To this end, the Department is designated as the state agency responsible for coordinating state efforts in this regard.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Home Energy Assistance Fund, hereinafter the "Fund." Moneys in the Fund shall be used to:

1. Supplement the assistance provided through the Department's administration of the federal Low-Income Home Energy Assistance Program Block Grant; and

2. Assist the Commonwealth in maximizing the amount of federal funds available under the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program by providing funds to comply with fund-matching requirements, and by means of leveraging in accordance with the rules set by the Home Energy Assistance Program.

The Fund shall be established on the books of the Comptroller. The Fund shall consist of donations and contributions to the Fund and such moneys as shall be appropriated by the General Assembly. Interest earned on money in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this section. The State Treasurer shall make expenditures and disbursements from the Fund on warrants issued by the Comptroller upon written request signed by the Commissioner. Up to twelve percent of the Fund may be used to pay the Department's expenses in administering the Home Energy Assistance Program.

C. The Department shall establish and operate the Home Energy Assistance Program. In administering the Home Energy Assistance Program, it shall be the responsibility of the Department to:

1. Administer distributions from the Fund;

2. Lead and facilitate meetings with the Department of Housing and Community Development, the Department of ~~Mines, Minerals and~~ Energy, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate in the Home Energy Assistance Program, for the purpose of sharing information directed at alleviating the seasonal energy needs of low-income Virginians, including needs for weatherization assistance services;

3. Collect and analyze data regarding the amounts of energy assistance provided through the Department, categorized by fuel type in order to identify the unmet need for energy assistance in the Commonwealth;

4. Develop and maintain a statewide list of available private and governmental resources for low-income Virginians in need of energy assistance; and

5. Report annually to the Governor and the General Assembly on or before October 1 of each year through October 1, 2007, and biennially thereafter, on the effectiveness of low-income energy assistance programs in meeting the needs of low-income Virginians. In preparing the report, the Department shall:

a. Conduct a survey biennially in each year that the report is due to the General Assembly that shall collect information regarding the extent to which the Commonwealth's efforts in assisting low-income Virginians are adequate and are not duplicative of similar services provided by utility services providers, charitable organizations and local governments;

b. Obtain information on energy programs in other states; and

c. Obtain necessary information from the Department of Housing and Community Development, the Department of ~~Mines, Minerals and~~ Energy, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate in the Home Energy Assistance Program, to complete the biennial survey and to compile the required report. The Department of Housing and Community Development, the Department of ~~Mines, Minerals and~~ Energy, and other agencies of the Commonwealth, as well as any nonstate programs that elect to participate in the Home Energy Assistance Program, shall provide the necessary information to the Department.

The Department is authorized to assume responsibility for administering all or any portion of any private, voluntary low-income energy assistance program upon the application of the administrator thereof, on such terms as the Department and such administrator shall agree and in accordance with applicable law and regulations. If the Department assumes administrative responsibility for administering such a voluntary program, it is authorized to receive funds collected through such voluntary program and distribute them through the Fund.

D. Local departments may, to the extent that funds are available, promote interagency cooperation at the local level by providing technical assistance, data collection and service delivery.

E. Subject to Board regulations and to the availability of state or private funds for low-income households in need of energy assistance, the Department is authorized to:

1. Receive state and private funds for such services; and

2. Disburse funds to state agencies, and vendors of energy services, to provide energy assistance programs for low-income households.

F. Actions of the Department relating to the review, allocation and awarding of benefits and grants shall be exempt from the provisions of Article 3 (§ 2.2-4018 et seq.) and Article 4 (§ 2.2-4024 et seq.) of Chapter 40 of the Administrative Process Act (§ 2.2-4000 et seq.).

G. No employee or former employee of the Department shall divulge any information acquired by him in the performance of his duties with respect to the income or assistance eligibility of any individual or household obtained in the course of administering the Home Energy Assistance Program, except in accordance with proper judicial order. The provisions of this section shall not apply to (i) acts performed or words spoken or published in the line of duty under law; (ii) inquiries and investigations to obtain information as to the implementation of this chapter by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information shall be privileged; or (iii) the publication of statistics so classified as to prevent the identification of any individual or household.

§ 67-200. Definitions.

As used in this title, unless the context requires a different meaning:

"Department" means the Department of ~~Mines, Minerals and~~ Energy.

"Division" means the Division of *Renewable* Energy *and Energy Efficiency* of the Department of ~~Mines, Minerals and~~ Energy.

"Plan" means the Virginia Energy Plan prepared pursuant to this chapter, including any updates thereto.

§ 67-202.1. Annual reporting by investor-owned public utilities.

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including but not limited to (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual

report to the Division ~~of Energy of the Department of Mines, Minerals and Energy~~ by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

§ 67-602. Control and supervision.

The Consortium shall be governed by a board of directors, which shall consist of 16 voting members as follows: (i) the Director of the Department of ~~Mines, Minerals and~~ Energy or his designee; (ii) the Commissioner of the Virginia Marine Resources Commission or his designee; (iii) the President of the Virginia Manufacturers Association or his appointed member of the maritime manufacturing industry; (iv) the President of the Virginia Maritime Association or his appointed member of the maritime industry; (v) the Director of the Advanced Research Institute of Virginia Polytechnic Institute and State University or his designee; (vi) the President of Old Dominion University or his designee; (vii) the Director of the Virginia Institute of Marine Science of The College of William and Mary in Virginia or his designee; (viii) the President of Norfolk State University or his designee; (ix) the President of James Madison University or his designee; (x) the President of Virginia Commonwealth University or his designee; (xi) the President of the University of Virginia or his designee; (xii) the President of Hampton University or his designee; (xiii) the President of George Mason University or his designee; (xiv) the chairman of the Hampton Roads Technology Council or his appointed member of the technology community; (xv) the Director of the Hampton Roads Clean Cities Coalition or his appointed member of the renewable energy industry; and (xvi) the Director of the Department of Environmental Quality or his designee as the lead agency for the Virginia Coastal Zone Management Program.

In addition, a representative of the National Aeronautics and Space Administration's Langley Research Center, to be selected by the director of the Research Center, shall serve as a nonvoting ex officio member of the Consortium's board of directors.

§ 67-900. (Contingent effective date) Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of ~~Mines, Minerals and~~ Energy.

"Fund" means the Renewable Electricity Production Grant Fund established pursuant to § 67-902.

"Qualified energy resources" means solar, wind, closed-loop biomass, organic, livestock, and poultry waste resources and lignin and other organic by-products of kraft pulping processes, bark, chip rejects, sawdust, fines and other wood waste, regardless of the point of origin.

"Qualified Virginia facility" means a facility located in the Commonwealth that uses qualified energy resources to produce electricity, and that is originally placed in service on or after January 1, 2007.

§ 67-1000. (Contingent effective date) Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of ~~Mines, Minerals and~~ Energy.

"Fund" means the Solar and Wind Energy System Acquisition Grant Fund established pursuant to § 67-1002.

"Individual" means the same as that term is defined in § 58.1-302.

"Photovoltaic property" means property that uses a solar photovoltaic process to generate electricity and that meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Solar water heating property" means property that, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within the structure and meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is located on the individual's or corporation's premises, (iv) is intended primarily to offset all or part of the individual's or corporation's own electricity requirements, and (v) meets applicable performance and quality standards as specified by the Department.

§ 67-1206. Transmission of power from offshore wind energy projects.

A. The incumbent, investor-owned utility for the onshore service territory adjacent to any offshore wind generation project shall, at the request of the Department of ~~Mines, Minerals and~~ Energy, initiate a transmission study. Such utility shall initiate the transmission study no more than 30 days following the request of the Department of ~~Mines, Minerals and~~ Energy, and shall report to the Department of ~~Mines, Minerals and~~ Energy within 180 days of the request. The Department of ~~Mines, Minerals and~~ Energy

shall report the results of the study to the Authority. The Department of ~~Mines, Minerals and~~ Energy shall request the study no later than July 31, 2010.

B. Upon receipt of the study, but no later than May 31, 2011, the Authority shall recommend such actions as it deems appropriate to facilitate transmission of power from offshore wind energy projects.

§ 67-1208. Director; staff; counsel to the Authority.

A. The Director of the Department of ~~Mines, Minerals and~~ Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Division of Offshore Wind within the Department of ~~Mines, Minerals and~~ Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

§ 67-1209. Annual report.

On or before October 15 of each year, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairs of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor. Such report may include the submission of the Division of Offshore Wind within the Department of ~~Mines, Minerals and~~ Energy required by § 45.1-161.5:1.

§ 67-1403. Board of the Authority.

A. The Authority shall be governed by a board of directors consisting of 17 members appointed as follows:

1. The Director of the Department of ~~Mines, Minerals and~~ Energy or his designee;

2. The President and Chief Executive Officer of the Virginia Economic Development Partnership or his designee;

3. The Chancellor of the Virginia Community College System or his designee;

4. The President of Virginia Commonwealth University or his designee;

5. The President of the University of Virginia or his designee;

6. The President of Virginia Polytechnic Institute and State University or his designee;

7. The President of George Mason University or his designee;

8. Two individuals to represent an institution of higher education in the Commonwealth not already represented on the Board, at least one of which shall be a private institution of higher education;

9. Six individuals, each to represent a single business entity located in the Commonwealth that is engaged in activities directly related to the nuclear energy industry;

10. One individual to represent a nuclear energy-related nonprofit organization; and

11. One individual to represent a Virginia-based federal research laboratory.

B. The members of the Board described in subdivisions A 1 through ~~A~~ 7 shall serve terms coincident with their terms of office.

C. The 10 members of the Board described in subdivisions A 8 through ~~A~~ 11 shall be appointed by the Governor. The original terms of five of such members shall end on June 30, 2015, and the original term of the five other such members shall end on June 30, 2017, all as designated by the Governor. After the initial staggering of terms, such members shall be appointed for terms of four years. Vacancies in the membership of the Board shall be filled in the same manner as the original appointments for the unexpired portion of the term. Members of the Board described in subdivisions A 8 through ~~A~~ 11 may serve two successive terms on the Board.

D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation, or removal created the vacancy.

E. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board.

F. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and may also elect such other subordinate officers who need not be members of the Board, as it deems proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings.

H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

I. On or before November 15 of each year, the Authority shall submit its updated strategic plan, an annual summary of its activities, and recommendations for the support and expansion of the nuclear energy industry in Virginia to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

§ 67-1506. (Expires July 1, 2025) Director; staff; counsel to the Authority.

A. The Director of the Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director may obtain non-state-funded support to carry out any duties assigned to the Director. Funding for this support may be provided by any source, public or private, for the purposes for which the Authority is created. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Department of ~~Mines,~~ ~~Minerals~~ ~~and~~ Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

2. That the provisions of this act shall become effective on October 1, 2021.