

# VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

## CHAPTER 266

*An Act to amend and reenact § 56-594.2 of the Code of Virginia, relating to small agricultural generators; definition.*

[H 1994]

Approved March 18, 2021

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-594.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-594.2. Small agricultural generators.**

A. As used in this section:

"Small agricultural generating facility" means an electrical generating facility that:

1. Has a capacity:
  - a. Of not more than 1.5 megawatts; and
  - b. That does not exceed 150 percent of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;
2. Uses as its total source of fuel renewable energy;
3. Is located on the customer's premises and is interconnected with its utility through a separate meter;
4. Is interconnected and operated in parallel with an electric utility's distribution but not transmission facilities;
5. Is designed so that the electricity generated by the facility is expected to remain on the utility's distribution system; and
6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594;
2. Operates a small agricultural generating facility as part of (i) an agricultural business or (ii) any business granted a manufacturer license pursuant to subdivisions 1 through 6 of § 4.1-206.1;
3. May be served by multiple meters that are located at separate but contiguous sites;
4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150 percent of the customer's expected annual energy consumption, but not for billing or retail service purposes, provided that the same utility serves all of its meters;
5. Uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and
6. Issues a certification under oath as to the amount of land being used for renewable generation.

"Utility" includes supplier or distributor, as applicable.

B. A small agricultural generator electing to interconnect pursuant to this section shall:

1. Enter into a power purchase agreement with its utility to sell all of the electricity generated from its small agricultural generating facility, which power purchase agreement obligates the utility to purchase all the electricity generated, at a rate agreed upon by the parties, but at a rate not less than the utility's Commission-approved avoided cost tariff for energy and capacity;
2. Have the rights described in subsection E of § 56-594 pertaining to an eligible agricultural customer-generator as to the renewable energy certificates or other environmental attributes generated by the renewable energy generating facility;
3. Abide by the appropriate small generator interconnection process as described in 20VAC5-314; and
4. Pay to its utility any necessary additional expenses as required by this section.

C. Utilities:

1. Shall purchase, through the power purchase agreement described in subdivision B 1, all of the output of the small agricultural generator;
2. Shall recover the cost for its distribution facilities to the generating meter either through a proportional cost-sharing agreement with the small agricultural generator or through metering the total capacity and energy placed on the distribution system by the small agricultural generator;
3. Shall recover all costs incurred by the utility to purchase electricity, capacity, and renewable energy certificates from the small agricultural generator:
  - a. If the utility has a Commission-approved Renewable Energy Portfolio Standard (RPS) plan and rate adjustment clause, through the utility's RPS rate adjustment clause; or
  - b. If the utility does not have a Commission-approved RPS rate adjustment clause, through the

utility's fuel adjustment clause or through the utility's cost of purchased power;

4. May conduct settlement transactions for purchased power in dollars on the small agricultural generator's electric bill or through other means of settlement, in the utility's sole discretion;

5. Shall bill the small agricultural generator eligible costs for small generator interconnection studies required pursuant to the appropriate small generator interconnection process described in subdivision B 3; and

6. Shall bill its expenses, at cost, for any additional engineering studies that a small agricultural generator is required to pay prior to interconnection.

**2. That after August 1, 2021, but before January 1, 2022, the State Corporation Commission (the Commission) shall initiate a rulemaking proceeding to promulgate any changes to its regulations necessary to implement the provisions of this act. The Commission shall complete such rulemaking proceeding within 12 months of its initiation. In conducting such a proceeding, the Commission may require that notice be provided to current small agricultural generators, if any, and may publish a notice in the Virginia Register of Regulations, but no other public notice is required. An opportunity to request a hearing shall be afforded, but if no request is made, a hearing shall not be required. In the rulemaking proceeding, the electric utilities affected by this act shall be required to submit compliance filings, but no other individual proceedings shall be required or conducted.**