

House Bill 206  
Notes and Comments  
By Chip Dicks (3-21-2022)

These comments are for clarification for the solar development community, with specific line references to the language in the text as passed the General Assembly for HB 206. See the link: <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+HB206ER>

Lines 44-47. If a solar project disturbs more than 10 acres of prime agricultural soils or 50 acres of contiguous forest lands, an analysis of the beneficial and adverse impacts on the proposed project on natural resources shall be required.

Lines 45-56. A solar project shall be deemed to have a significant adverse impact on natural resources if a solar project disturbs more than 10 acres of prime agricultural soils or 50 acres of contiguous forest lands and therefore be required to submit a mitigation plan.

Lines 109-112. Prime agricultural soils shall be as defined on the USDA maps. VDOE is posting the USDA maps on the VDOE website by July 1, 2022.

Lines 113-152. The legislation establishes a detailed stakeholder group process to assist in developing regulations to determine if a significant adverse impact to natural resources occurs (see lines 118-119). The stakeholder group will also assist in developing regulations that detail what should be included in a mitigation plan to “avoid, minimize or other mitigate any such impacts” (see lines 124-125).

A key point here is that avoidance is just one way of mitigation and if avoidance cannot be achieved in a particular solar project, mitigation can occur in other ways. Among a number of potential mitigation approaches, a payment in lieu of on-site mitigation will be discussed by the stakeholder group. See lines 126-127).

Lines 135-140. The stakeholder group will also consider the mitigations that are included in the approvals by the locality in a siting agreement or use permit conditions.

Line 150. DEQ is required to make a report to the General Assembly and the Governor on or before December 1, 2022. This gives the parties the ability to submit legislation by the pre-file date for the purpose of having a legislative discussion in the 2023 General Assembly Session, if all of these matters are not resolved by consensus in the stakeholder group process.

Lines 153-154. HB 206 does not become effective until adoption of the implementing regulations, which won't occur until at least July 1, 2024.

Lines 155-157. The grandfather clause protects any solar project currently in process provided that that solar project makes an initial interconnect application and such application is received by PJM or Dominion by December 31, 2024.