# Small Energy Storage Facilities Permit by Rule

# Complete Application Determination

# Section [9VAC15-100-130](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/) Checklist

# Application for permit by rule (PBR) for small energy storage facilities with a disturbance zone less than or equal to 10 acres or facilities located on previously disturbed or repurposed areas without regard to the size of the disturbance zone, or the rated power capacity is less than or equal to 150 MW and any impact to undisturbed area is less than or equal to 10 acres. Submit this completed application checklist with the PBR application to assist with a more efficient review process.

Disclaimer: Checklists are provided as a tool when applying for a PBR. Requirements correspond to Section 130 of the Small Renewable Energy Projects (Small Energy Storage) Permit by Rule regulation ([9VAC15-100](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/) et seq.) Refer to the PBR Program regulation, program guidance, and other references noted herein for details of required information for complete applications.

DEQ’s Ombudsman is available to provide assistance. For questions regarding this checklist, please contact timothy.wilke@deq.virginia.gov or 804-912-0989.

Application status may be viewed on the DEQ Permit Enhancement and Evaluation Platform ([PEEP](https://portal.deq.virginia.gov/peep-search)).

An application for a PBR under Section 9VAC15-100-130 is subject to requirements outlined in 9VAC15-100-130 B. and 9VAC15-100-130 C. The table below breaks down the requirements for each of these sections.

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| --- | --- | --- |
| **For a Complete Application Provide at Minimum:**  **(**[**Per 9VAC15-100-130 B**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/)**.)** | **Included (Y, N, or N/A)** | **Page Number(s)**  **Or Location(s)** |
| 1. Notice of Intent (NOI): NOI must be in a format acceptable to DEQ. See the Notice of Intent template attached to this template. |  |  |
| 1. Initial NOI must be submitted to DEQ as early as practicable but at least 90 days prior to the start of the public comment period. |  |  |
| 1. NOI shall be submitted to the chief administrative officer and chief elected official of the locality in which the project is proposed to be located the same time the NOI is submitted to DEQ. |  |  |
| 1. The NOI must include the following: 2. Name of the project (“project” refers to all aspects of a small renewable energy facility development including planning, permitting, construction, and commissioning) that will be used in all correspondence and permit certification requirements. |  |  |
| 1. Project Legal Business Name and [Virginia State Corporation Commission Entity ID](https://cis.scc.virginia.gov/EntitySearch/Index) (e.g., Company ABC, LLC; SCC Entity ID 12345678). |  |  |
| 1. Name and contact information for the owner and applicant (if applicant different from owner) – include mailing address, direct phone number, direct email. |  |  |
| 1. Proposed maximum rated power capacity in kilowatts or megawatts, as applicable. |  |  |
| 1. Project street address or detailed description of the project location that can easily be determined on a street map. |  |  |
| 1. Location of project in latitude and longitude (decimal degrees) identified as either the centroid or entrance of the project. |  |  |
| 1. Project locality: Town, City, or County. |  |  |
| 1. Proposed acres of land disturbance. |  |  |
| 1. Approximate number of photovoltaic (PV) systems and maximum height of PV systems. |  |  |
| 1. Identify if project is located on a [brownfield](https://www.deq.virginia.gov/our-programs/land-waste/land-remediation/brownfields). |  |  |
| 1. Name of development company associated with project. |  |  |
| 1. Certification by governing body of locality / localities stating that the project complies with all applicable land use ordinances ([9VAC15-100-30](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) A. 2) 2. The local governing body certification should either be a letter on official letterhead stationery from a responsible official of the local government (e.g., County Administrator, Planning Director, Zoning Administrator, Town Manager, etc., or designee) or the Local Governing Body Certification Form template attached to this checklist. |  |  |
| 1. If the local governing body certification is on official letterhead stationery, the letter should include the following: |  |  |
| 1. Date of correspondence. |  |  |
| 1. Proposed project name (a unique name specific to the project). |  |  |
| 1. Applicant contact name, company, mailing address, and email address. |  |  |
| 1. Proposed project location including latitude and longitude coordinates in decimal degrees identified as centroid or entrance of project. |  |  |
| 1. Statement that the project does or does not comply with all applicable local land use ordinances. |  |  |
| 1. In the event a special use permit (SUP), conditional use permit (CUP), or similar document is approved by the local governing body regarding project approval, include document(s) with the local government certification. The letter should include the printed name of the authorized local government representative, title, contact phone number, email address, and signature. |  |  |
| 1. Interconnection agreement pursuant to [9VAC15-100-30](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) A. 4. |  |  |
| 1. Provide copy of final interconnection agreement (IA) between the small renewable energy project and the regional transmission organization (RTO) or transmission owner (TO) indicating the project will not cause a reliability problem for the system. |  |  |
| 1. If final IA is not available, the applicant will submit the most recent interconnection study. |  |  |
| 1. A certification signed and stamped by a professional engineer licensed in Virginia stating the maximum rated power capacity of the facility, as designed, does not exceed 150 MW. See Rated Power Capacity template attached to this checklist. |  |  |
| 1. Site Plan Requirements ([9VAC15-100-70](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section70/)).   Note: Applicants are encouraged to submit site plans in multiple sheets at an appropriate scale to clearly demonstrate components required by the Regulation. |  |  |
| 1. Site plan is at a sufficient scale to show and include the components below. |  |  |
| 1. Show physical features, topography, and land cover of the area both before and after construction. |  |  |
| 1. Boundaries and dimensions of the project. |  |  |
| 1. Disturbance zone with 100-foot buffer or local zoning setback requirements as applicable. |  |  |
| 1. Storage infrastructure (e.g., battery cell modules / containers, inverters, transformers, switchgear, cabling, etc.) |  |  |
| 1. Include note on site plan that a post-construction site plan will be submitted to DEQ within six months of commercial operation commencement per [9VAC15-100-70](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section70/) C. |  |  |
| 1. Open areas |  |  |
| 1. Screening areas |  |  |
| 1. Location, height, and dimensions of all existing and proposed energy storage systems, other structures, fencing, and other infrastructure (including, but not limited to, other energy infrastructure, e.g., solar modules, inverters, transformers, transmission lines, circuits, cabling, etc.) as applicable, |  |  |
| 1. Location, grades, and dimensions of all temporary and permanent onsite and access roads from the nearest county of state-maintained road. |  |  |
| 1. Legibly label roads with symbology (e.g., route number) or name. |  |  |
| 1. Water bodies, waterways, wetlands, drainage channels, and Chesapeake Bay resource protection areas (RPA) pursuant to [9VAC25-830-80](https://law.lis.virginia.gov/admincode/title9/agency25/chapter830/section80/) |  |  |
| 1. Location of any mitigation measures and resources subject to mitigation |  |  |
| 1. Environmental Permit Certification ([9VAC15-100-130](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/) B. 6) |  |  |
| 1. Environmental permit certification should include local, state, and federal environmental permits required for the proposed project, including, but not limited to, erosion and sediment control, stormwater management, Virginia Water Protection (VWP) permits, U.S. Army Corps of Engineers Nationwide Permits, etc., and the status of the applicant’s application for each (“applied for” or “obtained”).   The applicant should certify that they have “applied for” each permit by providing to DEQ the type of permit, the name and address of the permitting authority, name of the staff person to whom the application was addressed (if available), and the date on which the application was submitted. |  |  |
| 1. In some cases where it is premature in the process to apply for permits, e.g., local erosion and sediment control and stormwater management permits, the applicant should provide DEQ copies of correspondence with the permitting official /agency describing what type of permit(s) will be required for the proposed project and the expected timeframe for obtaining those permits.   For purposes of this regulation, the term “applied for” all necessary environmental permits means that the applicant has submitted an application to the receiving authority for an environmental permit.  If the applicant has “obtained” environmental permits at the time of PBR application submission, the applicant should include copies of permits or approval letters to the Environmental Permit Certification.  See the Environmental Permit Certification template attached to this checklist. |  |  |
| 1. Application Fee ([9VAC15-100-110](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section110/)) 2. PBR Energy Storage Application & Retrofit Fees as of August 2024:  * Project with a disturbance zone < 10 acres = $2,500 * Project with a disturbance zone > 10 acres = $5,000 * Retrofit project = $500   NOTE: PBR applicants may pay permit fees through DEQ’s online payment system ([DEQ Account Information: One Time Payment: State of Virginia DEQ (paymentus.com)](https://ipn2.paymentus.com/rotp/sdeq)) via eCheck, debit card, and credit card. To pay a fee, select Renewable Energy in the “Select a Payment Type” dropdown menu and follow instructions.  \*Per the DEQ Finance Department, there is a 2.5% fee for debit and credit cards and $1.00 fee for eCheck payments.\* |  |  |
| 1. The following information must be submitted with the fee payment: |  |  |
| 1. Applicant name, address, daytime phone number. |  |  |
| 1. Responsible person name, address, daytime phone number. |  |  |
| 1. Name of project and project location. |  |  |
| 1. Project type: new PBR issuance or retrofit. |  |  |
| 1. Amount of fee submitted. |  |  |
| 1. Existing project / permit number (e.g., RE0000XXX). |  |  |
| **Application Requirements per** [**9VAC15-100-130 C**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/)**.** | **Included**  **(Y, N, or N/A)** | **Page Number(s)**  **Or Location(s)** |
| 1. Application documents must be submitted in accordance with requirements of [9VAC15-100-30](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) B. 2. | | |
| All applications must include a cover letter that contains the following: | | |
| 1. Document certification signed by a responsible person that contains the following statement:   "I certify under penalty of law that this application document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there may be significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." |  |  |
| 1. Name and contact information (direct phone number, email address, and mailing address) of the responsible person signing the document certification required under [9VAC15-100-130](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) B. 2. a. |  |  |
| 1. Name and contact information (direct phone number, email address, and mailing address) of the responsible person to receive the permit authorization. |  |  |

Sd

**Select** [**Definitions**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section10/) **(click link for all definitions related to** [**9VAC15-100**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/) ***et seq.*):**

"Applicant" means the developer, owner, or operator that submits an application to the department for a permit by rule pursuant to this chapter.

"Notice of Intent" or "NOI" means notification, in a manner acceptable to the department, by an applicant stating intent to submit documentation for a permit under this chapter.

"Operator" means the person responsible for the overall operation and management of a small energy storage facility.

"Owner" means the person that owns all, a portion of, or has all or a controlling interest in a small energy storage facility.

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

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

"Previously disturbed or repurposed area" means the land area within the property boundary of industrial or commercial properties, including brownfields, or previously mined areas. It does not include active or fallow agricultural land or silvicultural land use.

"Project" refers to all aspects of small energy storage facility development, including planning, permitting, construction and commissioning.

"Rated power capacity" Rated power capacity is the total possible instantaneous discharge capability (in kilowatts [kW] or megawatts [MW]) of the energy storage system, or the maximum rate of discharge that the energy storage system can achieve, starting from a fully charged state.

"Responsible person" means:

1. For a corporation or limited liability company, a president, secretary, treasurer, or vice-president in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation or limited liability company or is subject to Title 13.1 of the Code of Virginia;

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

1. For a local government entity subject to Title 15.2 of the Code of Virginia or state, federal, or other public agency, either a principal executive officer or ranking elected official.

“Small energy storage facility" or "facility" means an energy storage facility that uses electrochemical cells to convert chemical energy with a rated power capacity not exceeding 150 MW in AC.

"Small renewable energy project" means (i) an electrical generation facility with a rated power capacity not exceeding 150 MW that generates electricity only from sunlight or wind; (ii) an electrical generation facility with a rated capacity not exceeding 100 MW that generates electricity only from falling water, wave motion, tides, or geothermal power; (iii) an electrical generation facility with a rated power capacity not exceeding 20 MW that generates electricity only from biomass, energy from waste, or municipal solid waste; (iv) an energy storage facility that uses electrochemical cells to convert chemical energy with a rated power capacity not exceeding 150 MW; or (v) a hybrid project composed of an electrical generation facility that meets the parameters established in subdivision (i), (ii), or (iii) of this definition and an energy storage facility that meets the parameters established in subdivision (iv) of this definition.

**Small Energy Storage Facilities Permit by Rule**

**Notice of Intent (NOI) Form**

**(**[**9VAC15-100-30**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) **A. 1. and** [**9VAC15-100-130**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/) **B. 1.)**

*Send completed forms to DEQ via Amber Foster, Small Renewable Energy Permit by Rule Coordinator,* [*amber.foster@deq.virginia.gov*](mailto:amber.foster@deq.virginia.gov)

|  |  |  |  |
| --- | --- | --- | --- |
| Project Name [Unique name that will be used in all correspondence & permit certification requirements]: | | Project Street Address: | |
| Project Locality (Town, City, or County): | | Project latitude and longitude in decimal degrees:  Circle one: project entrance or project centroid | |
| Proposed acres of land disturbance: | | Proposed project area (total acres): | |
| Proposed maximum rated power capacity in MW: | Approximate number & dimensions of battery cell module containers / enclosures: | | Project is located on a [brownfield](https://www.deq.virginia.gov/our-programs/land-waste/land-remediation/brownfields):  Circle one: YES / NO |
| Applicant Name: | | Applicant Title: | |
| Applicant Mailing Address: | | Applicant Direct Telephone Number & Email Address: | |
| Developer Contact Name & Title: | | Developer Direct Telephone Number & Email Address: | |
| Owner Contact Name & Title: | | Owner Direct Telephone Number & Email Address: | |
| Owner registered legal business name and [Virginia State Corporation Commission Entity ID](https://cis.scc.virginia.gov/EntitySearch/Index): | | | |

**Small Energy Storage Facilities Permit by Rule**

**Local Governing Body Certification Form**

**(**[**9VAC15-100-30**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) **A. 2. And** [**9VAC15-100-130**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section130/) **B. 2)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Project Name [Unique name that will be used in all correspondence & permit certification requirements]: | | Project Street Address: | | |
| Proposed project area (total acres): | Proposed acres of land disturbance: | Project latitude and longitude in decimal degrees:  Circle one: project entrance or project centroid | | |
| Applicant Contact Name: | | Applicant Title and Affiliation: | | |
| Applicant Mailing Address: | | Applicant Direct Telephone Number & Email Address: | | |
| The applicant or applicant’s representative is submitting an application for a small renewable energy permit by rule from the Virginia Department of Environmental Quality. In accordance with § 10.1 -1197.6 B 2 of the Code of Virginia, before such permit application can be considered complete, the applicant must obtain a certification from the governing body of the locality or localities in which the small renewable energy project will be located that the project complies with all applicable land use ordinances.  **The undersigned requests that a responsible official of the local governing body sign the certification statement below. In addition, by signing below, the applicant affirms that he has also submitted this form to other localities, if any, in which the proposed project will be located.** | | | | |
| Applicant’s signature: | | | | Date: |
| ***The undersigned local government representative certifies*** *that the proposed small renewable energy project complies with all applicable land use ordinances, as follows:*  (Check one block) | | | | |
| The proposed facility **complies with** all applicable land use zoning and /or ordinances. | | | | |
| The proposed facility **does not comply** with all applicable land use zoning and /or ordinances.  Comments: | | | | |
| Signature of authorized local government representative: | | | Date: | |

**Small Energy Storage Facilities Permit by Rule**

**Rated Power Capacity Certification (**[**9VAC15-100-130**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) **B. 4.)**

|  |  |
| --- | --- |
| Project Name [Unique name that will be used in all correspondence & permit certification requirements]: | Project Street Address and latitude and longitude point of entry or centroid (in decimal degrees): |
| Applicant / Owner Name: | |
| Applicant Contact Name: | Applicant Contact Title and Affiliation: |
| Applicant Contact Mailing Address: | Applicant Direct Telephone Number & Email Address: |
| Applicant Contact signature: | Signature Date: |
| **Certification Requirement:** *The applicant or applicant’s authorized representative is submitting an application for a small renewable energy permit by rule (PBR) from the Virginia Department of Environmental Quality. In accordance with § 10.1 – 1197.6 of the* Code of Virginia*, before such permit application can be considered complete, a professional engineer licensed in the Commonwealth of Virginia must certify that the maximum rated power capacity of the small energy storage facility does not exceed 150 megawatts (MW).*  The undersigned is professional engineer licensed in the Commonwealth of Virginia and certifies that the maximum rated power capacity for the project named above does not exceed 150 MW: | |
| *Name of Certified Professional Engineer (Print):* | |
| Professional Engineer: Please provide stamp, signature, and date. |  |

**Small Energy Storage Facilities Permit by Rule**

**Environmental Permit Certification Form (**[**9VAC15-100-130**](https://law.lis.virginia.gov/admincode/title9/agency15/chapter100/section30/) **B. 6.)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Project Name [Unique name that will be used in all correspondence & permit certification requirements]: | | Project Street Address and latitude and longitude point of entry or centroid (in decimal degrees): | | |
| Applicant / Owner Name: | | | | |
| Applicant Contact Name: | | Applicant Contact Title and Affiliation: | | |
| Applicant Contact Mailing Address: | | Applicant Direct Telephone Number & Email Address: | | |
| The applicant is submitting an application for a small renewable energy permit by rule from the Virginia DEQ. In accordance with § 10.1-1197.6 B 12 of the Code of Virginia, before such permit application can be considered complete, the applicant must certify that the small renewable energy project has applied for or obtained all necessary environmental permits.    List all state and local environmental permits that are necessary for the small renewable energy project listed above. Indicate for each whether the permit has been applied for and/or obtained. If the permit has been obtained, attach either a copy of the permit or a letter from the appropriate agency staff member on agency stationery stating that the permit has been issued and the date of issuance.   * If a permit has not yet been obtained but has been applied for, provide the name of the permit, name and address of the receiving agency, name of the staff person at the receiving agency to whom the application was addressed, and the date on which the application was submitted. * If a permit(s) has not yet been applied for through the appropriate agency, provide the type of permit(s) and/or authorization(s) required (e.g., land disturbance, wetlands, stormwater, erosion and sediment control, etc.) and the permit authority organization and authority contact person for each. | | | | |
| **Permit Permitting** | **Permitting Agency / Authority, Address, Contact Person** | | **Application Submission Date** | **Permit / Authorization Obtained Date** |
|  |  | |  |  |
|  |  | |  |  |
|  |  | |  |  |
| I hereby certify that the information provided above (and any attached information) is correct and fulfills the requirements of § 10.1-1197.6 B 12 of the Code of Virginia and 9 VAC 15-40-30 A 12. | | | | |
| Applicant / Owner Contact Signature: | | | Signature Date: | |

Document Updates

1. 10/10/2024: Changed checklist item #5 to reflect change from “maximum storage capacity” to “maximum rated power capacity; changed title of form associated with 9VAC15-100-30-A. 5. (page 15) and certification language from “maximum storage capacity” to “maximum rated power capacity;” and updated definition of “Rated power capacity” to be consistent with industry standard. Revised formatting.