

State of New Jersey
Governor Philip D. Murphy
Lt. Governor Tahesha L. Way



Christine Guhl-Sadovy
President

Dr. Zenon Christodoulou
Marian Abdou
Michael Bange
Commissioners

Board of Public Utilities



www.nj.gov/bpu/

NOTICE

IN THE MATTER OF THE DUAL-USE SOLAR ENERGY PILOT PROGRAM

REQUEST FOR COMMENTS

[Docket No. QO23090679](#)

Staff of the New Jersey Board of Public Utilities ("NJBP" or "Board") invites all interested parties and members of the public to provide written comments on the preliminary draft rule for the Dual-Use Solar Energy Pilot Program ("Pilot Program").

BACKGROUND AND PROCEDURAL HISTORY

In July 2021, Governor Murphy signed the Dual-Use Solar Energy Act of 2021 (L. 2021, c. 170, "Dual-Use Act") which directs the Board to adopt rules establishing a Pilot Program for the development of dual-use solar projects on productive farmland (also known as "agrivoltaics"). The Pilot Program is designed to encourage the development of dual-use solar facilities and the creation of a new segment of the solar industry in New Jersey that is compatible with the State's rich agricultural heritage. Specifically, the Pilot Program seeks to demonstrate and study the compatibility of active agricultural or horticultural production and solar photovoltaic infrastructure on the same land/property. Board staff ("Staff") engaged the Rutgers Agrivoltaics Program ("RAP") at Rutgers University ("RU") for providing crucial input into the design of the Pilot Program; on May 1, 2023, the Board executed a three-year grant agreement with RAP to facilitate the development and implementation of a Pilot Program.

Throughout 2023, and in close collaboration with RAP, the New Jersey Department of Agriculture, New Jersey Department of Environmental Protection, State Agriculture Development Committee, and other interested stakeholders, the Board conducted robust public engagement to gather input on the implementation of this law.

- On November 9, 2023, a Pilot Program Straw Proposal ("[Straw Proposal](#)") was issued for public comment, with a corrected version issued on November 21, 2023. Written comments were due on December 13, 2023.
- On November 14, 2023, Staff, in conjunction with RAP, presented an overview of the Straw Proposal at the New Jersey Farm Bureau's annual conference, with approximately 80 attendees including stakeholders primarily from the agricultural community, academia, and federal, state, and local government.
- On November 29, 2023, Staff led a stakeholder meeting, with approximately 129 attendees representing stakeholders from the agricultural community, solar industry, utilities, trade associations, academia, nonprofits, consultants, environmental organizations, media groups, state and local government, and members of the general public. The recording and materials presented at the stakeholder meeting are available on the Board's website at <https://www.nj.gov/bpu/newsroom/public/>.
- Staff received 16 written comments, representing 22 entities, on the Straw Proposal.

In 2024, the Board will conduct a rulemaking for the Pilot Program and run the first solicitation to select dual-use projects. Prior to issuing a formal rule proposal, and in accordance with the State's rulemaking procedures established at N.J.A.C. 1:30-5.3(a), Staff is informally seeking input from stakeholders on this preliminary rule draft. The preliminary rule draft reflects stakeholder comments provided on the Straw Proposal. Staff's responses to stakeholders' written comments received are anticipated to be included in a future Board Order.

State of New Jersey
Governor Philip D. Murphy
Lt. Governor Tahesha L. Way



Christine Guhl-Sadovy
President

Dr. Zenon Christodoulou
Marian Abdou
Michael Bange
Commissioners

Board of Public Utilities



www.nj.gov/bpu/

Please submit any questions regarding this stakeholder process to laura.scatena@bpu.nj.gov and include the subject line "Dual-Use Solar Pilot" as applicable.

COMMENTS

The Board is also accepting written and/or electronic comments. All public comments should be filed under Docket No. [QO23090679](#), In the Matter of the Dual-Use Solar Energy Pilot Program.

The deadline for comments on this matter is 5 p.m. Eastern Time on June 24, 2024.

Please submit comments directly to the specific docket listed above using the "Post Comments" button on the Board's [Public Document Search](#) tool. All comments are considered "public documents" for purposes of the State's Open Public Records Act. Only public documents should be submitted using the "Post Comments" button on the [Public Document Search](#) tool. Commenters may identify any information they seek to keep confidential by submitting them in accordance with the procedures set forth in N.J.A.C. 14:1-12.3.

In addition to hard copy submissions, confidential information may also be filed electronically via the Board's e-filing system or by email to the Secretary of the Board. Please include "Confidential Information" in the subject line of any e-mail. Instructions for confidential e-filing are found on the Board's webpage, <https://www.nj.gov/bpu/agenda/efiling/>.

E-mailed and/or written comments may also be submitted to:

Secretary of the Board
44 South Clinton Ave., 1st Floor
PO Box 350
Trenton, NJ 08625-0350
Phone: 609-292-1599
Email: board.secretary@bpu.nj.gov

Staff looks forward to receiving and reviewing your responses. Thank you for your interest in this matter.

Sherri L. Golden

Sherri L. Golden
Secretary of the Board

Dated: June 10, 2024

Preliminary Draft Dual-Use Solar Energy Pilot Program Rules:

New Jersey Administrative Code – New Subchapter 14:8-13

14:8-13.1 Purpose and scope

14:8-13.2 Definitions

14:8-13.3 Pilot Program structure

14:8-13.4 Pilot Program capacity targets and limits

14:8-13.5 Pilot Program eligibility

14:8-13.6 Project siting requirements

14:8-13.7 Pilot Program solicitation process

14:8-13.8 Conditions for a project awarded an incentive

14:8-13.9 Installation, construction, and operational requirements

14:8-13.10 Monitoring and research requirements

14:8-13.11 Compliance and remediation

14:8-13.12 Decommissioning procedures

14:8-13.13 Reporting and recordkeeping

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. RENEWABLE ENERGY GENERAL PROVISIONS AND DEFINITIONS

14:8-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1, 14:4-1.2, and 14:8-2.2.

“Adder” means an additional incentive on top of a base incentive provided as an SREC-II within the Successor Solar Incentive (SuSI) Program at N.J.A.C. at 14:8-11.

...

“Dual-Use Solar Energy Project” means the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unpreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural use. N.J.S.A. 48:3-87.13(h).

“Dual-Use Solar Energy Pilot Program” or “Pilot Program” refers to the program established at N.J.A.C. 14:8-13.

...

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

14:8-11.4 Successor Solar Incentive Program Eligibility

(a)-(k) (No change.)

(l) Dual-Use Solar Energy Projects approved by the Board for ADI Program incentives as described at N.J.A.C. 14:8-13 shall be eligible for an ADI Program incentive in the relevant market segment if not

directed to participate in the CSI Program. A Dual-Use Solar Energy Project may be awarded a Pilot Program incentive Adder.

(m) Dual-Use Solar Energy Projects approved by the Board for CSI Program incentives may be awarded a Pilot Program incentive Adder.

SUBCHAPTER 13. DUAL-USE SOLAR ENERGY PILOT PROGRAM RULES

14:8-13.1 Purpose and scope

This subchapter sets forth the rules for the establishment of a Dual-Use Solar Energy Pilot Program, in accordance with N.J.S.A. 48:3-87.13.

14:8-13.2 Definitions

“Application period” means the time during which applications will be received for review in advance of a project’s participation as a Selected Project in the Dual-Use Solar Energy Pilot Program. The period will commence upon an opening date and close on a subsequent date and time, each specified by Board staff in a Notice of Funding Availability.

“Agricultural practices” means practices used to produce field crops, fruits and vegetables, specialty crops, forage crops, and aquaculture, as well as animal production.

“Beneficial owner” means, with respect to a Dual-Use Solar Energy Project, the rightful recipient of the benefits from said project, even if legal title to the project is held by someone else. The beneficial owner may be different from the legal title holder of the project, but must own or control at least part of the project.

“Board” has the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Capacity” or “nameplate capacity” means the maximum rated output in megawatts, measured in direct current (DC), of all individual photovoltaic panels physically interconnected to make up a solar array.

“Construction, Operations, Monitoring, and Project Research Plan” or “COMPR” means the document or sets of documents filed with the Board Secretary’s Office describing key elements of a Selected Project.

“Dual-Use Solar Energy Pilot Program award” means the Board-approved conveyance to a dual-use solar developer of eligibility rights with respect to a specific incentive or incentives for a Dual-Use Solar Energy Project with the terms and conditions of those eligibility rights and incentives designated in a Board order.

“Equity” means, as adapted from federal Executive Order 13985 of Jan. 20, 2021 (On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government), the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have historically experienced inequitable treatment, such as Black, Latino, and Indigenous and Native American persons; Asian Americans, Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or adversely impacted by the building or location of their residence.

“Expression of interest” or “EOI” means a written response prepared by a potential applicant in the Pilot Program as part of a pre-qualification process indicating the intent to apply for the Pilot Program.

“Farmer” means, consistent with N.J.A.C. 2:76-10.5(c), an owner or operator of a farming operation who, during the calendar year immediately preceding submission of a Dual-Use Solar Energy

Pilot Program application or an expression of interest, realized gross sales of at least \$2,500 of agricultural or horticultural products produced from the farming operation exclusive of any income received for rental of lands.

“Force majeure” means an act of God or any other occurrence beyond the control of an applicant, such as crop loss due to drought or severe weather.

“Horticultural practices” means practices used to produce horticultural crops, including but not limited to potted plants, vegetable transplants, cut flowers, nursery plants, trees, shrubs, vine crops, and sod.

“Landowner” means the record owner of the land, duly authorized purchaser of the land under a contract for land purchase, or record owner of the development easement acquired pursuant to N.J.S.A. 4:1C-34.

“NJDA” means the New Jersey Department of Agriculture.

“NJDEP” means the New Jersey Department of Environmental Protection.

“New Jersey public research institution of higher education” means any public research university, college, or community college located in New Jersey.

“Non-permanent agricultural structure” means a movable structure including high tunnels (a greenhouse-like structure used to protect crops and extend the growing season), center-pivot irrigation systems, post-driven fences, trellises, or structures without permanent anchoring systems or foundations such as animal shelters and some greenhouses.

“Notice of Funding Availability” or “NOFA” means a notice issued to the public for the purposes of communicating an opportunity for interested parties to submit an expression of interest for a Dual-Use Solar Energy Project for pre-qualification into the Dual-Use Solar Energy Pilot Program.

“Overburdened community” means the same as such term is defined in NJDEP’s Environmental Justice Rule at N.J.A.C. 7:1C-1.5.

“Permanent agricultural structure” means a structure that has been built with a permanent anchoring system or foundation (typically involving cement or concrete). Examples include farmhouses or residential structures, farm retail stores, barns, packhouses, agricultural equipment and materials storage sheds, greenhouses, grain storage facilities, plant and animal processing facilities, cold storage facilities, and feedlots.

“Preserved farmland” means the same as such term is defined in section 4 of P.L.2009, c.213 (N.J.S.A. 54:4-23.3c).

“Program Year” or “PY” means a 12-month period within the Pilot Program with an associated annual capacity target.

“Project site” means the location of the parcel proposed to contain the Dual-Use Solar Energy Project, including the solar array, balance of system equipment, and the associated research control area together.

“Research control area” means a designated portion of the project site which does not contain the solar array or balance of system equipment but is equivalent to the array-containing portion with regard to agricultural productivity potential, farming practices, farm management, and any extraneous factors affecting agricultural productivity.

“SADC” means the State Agriculture Development Committee established pursuant to section 4 of the “Right to Farm Act,” P.L.1983, c. 31 (N.J.S.A. 4:1C-4).

“Selected Project” means a Dual-Use Solar Energy Project selected by the Board to participate in the Dual-Use Solar Energy Pilot Program.

“Selected Project team” means the entities or representatives thereof that are responsible for a Selected Project, including, but not limited to, the farmer(s), landowner(s), and solar operator(s).

“Solar operator” means the person or entity that installs, owns, or controls the dual-use solar energy generation facilities, structures, and equipment.

“Solicitation round” means the entirety of the solicitation process commencing with a Board order announcing an annual capacity target and concluding within one year, unless otherwise specified within the Board order. A solicitation round may include more than one application period, each with an associated application capacity target.

“Underserved communities” means populations sharing a particular characteristic, as well as geographic communities, that are unlikely to have received consistent and systemic fair, just, and impartial treatment that impacted their opportunity to participate equitably in and benefit from various aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity.”

“Unpreserved farmland” means any land that is valued, assessed, and taxed pursuant to the New Jersey Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.) and is not preserved farmland.

14:8-13.3 Pilot Program structure

(a) The Pilot Program shall run for at least 36 months, divided into Program Year 1 (PY1), Program Year 2 (PY2), and Program Year 3 (PY3). PY1 shall begin on {the date of adoption of this rule}, and last for 12 months thereafter. Subsequent Program Years shall begin on the one-year anniversary of the rule adoption, at the completion of the previous Program Year.

(b) The Board may extend the Pilot Program by no more than two additional 12-month periods (PY4 and PY5) if the Board, in consultation with the Secretary of Agriculture, determines that such extensions are

necessary to adequately evaluate the performance of the projects selected for construction as part of the Pilot Program.

(c) No later than 36 months after the adoption of program rules, at the conclusion of PY3, or no later than 48 or 60 months if the Board extends the Pilot Program by one year (PY4) or two years (PY5), respectively, the Board, in consultation with the Secretary of Agriculture, shall adopt rules to convert the Pilot Program to a permanent Dual-Use Solar Energy Program.

(d) For each Program Year, the Board shall initiate an annual solicitation process pursuant to the Dual-Use Solar Energy Act, as described at N.J.A.C. 14:8-13.7.

(e) The Board will commence a solicitation round during a particular Program Year beginning with the issuance of a Board order establishing an initial annual capacity target for that Program Year. Each solicitation round shall have at least one application period. An application period shall be preceded by Board staff's issuance of a Notice of Funding Availability (NOFA). The NOFA will include instructions and requirements for each project team to submit an Expression of Interest (EOI) in participating in the related application period. The NOFA shall provide criteria for project pre-qualification. Submission of an EOI to Board staff does not bind or commit a project to participate in such application period. However, failure to submit an EOI precludes a project team from participating in the application period for which the EOI was required.

(f) Following receipt of an EOI, Board staff will review the EOI and provide feedback on the proposed project to the applicant. Board staff will determine based on the EOI whether a project is pre-qualified for the next application period. Projects to which Board staff provides pre-qualification approval status will be encouraged to submit an application during the related application period. Projects that Board staff determines are not pre-qualified because they do not meet established participation criteria will not be permitted to submit an application for that application period.

(g) Based upon the responses to the EOI for a particular application period, the Board will establish a capacity target for each application period. The relevant application period shall commence when the Board issues an announcement of the application period's capacity target and approves for public distribution a standard form of application to participate in the Pilot Program during that application period.

(h) The application approved for use within an application period shall contain instructions for how applicants should demonstrate the qualities and characteristics of their proposed project. The application instructions will also detail how applications will be evaluated and how any additional eligibility criteria, such as minimum solar capacity or maturity requirements.

(i) Board staff shall review for administrative completeness the applications received for a particular application period pursuant to N.J.A.C. 14:8-13.7(i).

(j) The Board shall issue an order or orders approving or disapproving projects, including any conditions relating to a project approval, based on the content of each project's submitted application.

(k) Selected Projects shall be subject to the terms and conditions for participating in the Pilot Program as described in this chapter, as well as to any additional terms or conditions specified by the Board in an order conditionally approving a Selected Project. Selected Projects shall be eligible for a Dual-Use Solar Energy Pilot Program Adder that shall supplement an SREC-II incentive provided through the ADI Program or CSI Program incentive, if they meet all the requirements in this chapter and the Board order.

(l) Selected Projects shall be subject to monitoring and operational requirements in this chapter as well as any requirements in an order conditionally approving a Selected Project. Failure to comply with the terms and conditions expressed herein or contained in such an order puts the project at risk for timely receipt of the solar incentive and potential revocation of the dual-use Adder as described at N.J.A.C. 14:8-13.11.

(m) The aggregated results from all application periods within the rounds, the compliance of the Selected Projects with the Pilot Program's terms and conditions, and the research results from the Selected Projects

will inform the Board’s development of a permanent dual-use solar energy program that is a component of the SuSI Program.

14:8-13.4 Pilot Program capacity targets and limits

(a) The Board shall establish annual capacity targets for Selected Projects in a Board order commencing a solicitation round. Board staff shall include a capacity target for each application period within the application materials for a particular application period issued for public use as described at N.J.A.C. 14:8-13.7. The capacity target shall be determined based upon the amount of capacity of projects received in response to a NOFA that are qualified to proceed to submit an application into the Pilot Program.

(b) The annual capacity target for Dual-Use Solar Energy Projects approved for participation in the Pilot Program during PY3 shall be set to enable the Pilot Program to accommodate as much capacity as possible without exceeding the 200-megawatt (MW) Pilot Program limit. If the Board extends the Pilot Program under N.J.A.C. 14:8-13.3(b), it may increase the total capacity limit of all projects under the program by no more than 50 MW, as measured in DC, per each of the two possible additional 12-month periods, for a total Pilot Program capacity after five years of 300 MW.

(c) The Board shall consider the amount of unallocated capacity at the end of a Program Year and any capacity allocated to a Selected Project that has withdrawn from the Pilot Program in establishing the annual capacity targets for subsequent Program Years.

(d) The annual capacity targets may be apportioned to achieve Pilot Program goals such as diversity in agricultural/horticultural activity or geographic location using recent data such as crop type and animal production classifications in New Jersey, as defined by the National Agricultural Statistics Service, within the United States Department of Agriculture.

(e) The Board may establish capacity set-asides within the annual capacity target for particular types of projects pursuant to the criteria established under N.J.A.C. 14:8-13.7(e) with the intent of studying a diverse pool of Selected Projects in the Pilot Program. A description of the project characteristics which may qualify a project for the set-aside shall be contained within the NOFA described at N.J.A.C. 14:8-13.7(a). The Board shall establish any set-aside of capacity within an annual capacity target in the Board order announcing a Pilot Program solicitation round.

14:8-13.5 Pilot Program eligibility

(a) The Board shall select projects for participation in the Pilot Program in a competitive solicitation process as outlined at N.J.A.C. 14:8-13.7. The selection criteria for applications shall be established by the Board prior to the opening of an application period within the solicitation round.

(b) The capacity limit for an individual Dual-Use Solar Energy Project in the Pilot Program is set at a maximum of 10 MW per project, measured as the sum of the nameplate capacity in DC rating of all PV panels comprising the Dual-Use Solar Energy Project. An application submitted in the Pilot Program must contain only one individual Dual-Use Solar Energy pilot project.

(c) The Board may establish, by order prior to the opening of an application period, a minimum capacity limit for individual Dual-Use Solar Energy Projects in the Pilot Program, measured as the sum of the nameplate capacity in DC rating of all PV panels comprising the Dual-Use Solar Energy Project.

(d) Applications, as such term is used in N.J.A.C. 14:8-13.7(e), will only be accepted for Dual-Use Solar Energy Projects for which an EOI was submitted to Board staff and for which Board staff has issued a pre-qualification approval notice. Project teams that receive pre-qualification approval for a particular application period will be encouraged to submit the application for that application period to participate in the Pilot Program.

(e) The Board shall provide conditional approval to projects selected in the application process described at N.J.A.C. 14:8-13.7 via a Board order.

(f) A Dual-Use Solar Energy Project must be registered and approved for both the Dual-Use Pilot Program and the CSI or ADI Program, as applicable, before beginning construction. Successful registration in the ADI Program at N.J.A.C. 14:8-11.4(a) through (f) or the CSI Program at N.J.A.C. 14:8-11.4(g) through (k) is required for a Selected Project.

(g) Existing solar projects that have registered, commenced construction, and been certified as eligible to receive incentives pursuant to New Jersey's solar programs may not apply to requalify as a Dual-Use Solar Energy Project under the Pilot Program.

(h) A Selected Project that satisfies all conditions including the ADI Program or CSI Program registration requirements and obtains a New Jersey Certification Number shall be considered approved for purposes of calculating the 200 MW Pilot Program limit for the first three Pilot Program years.

(i) Applications will not be accepted for proposals in which an electric distribution company would develop, own, or operate a Dual-Use Solar Energy Project.

14:8-13.6 Project siting requirements

(a) Dual-Use Solar Energy Projects shall be located only on unreserved farmland.

(b) Dual-Use Solar Energy Projects are prohibited from locating on the following land types (collectively "prohibited land uses"), unless a waiver is granted by the Board, in consultation with the NJDEP and Secretary of Agriculture pursuant to the process outlined in subsection (h) below:

1. Land preserved pursuant to the Green Acres Program, as defined at N.J.A.C. 7:36;

2. Land located within the preservation area of the Pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (N.J.S.A. 13:18A-11);

3. Land designated as forest area in the Pinelands Comprehensive Management Plan adopted pursuant to P.L.1979, c.111 (N.J.S.A. 13:18A-1 et seq.);

4. Land designated as freshwater wetlands, as defined pursuant to P.L.1987, c.156 (N.J.S.A. 13:9B-1 et seq.), or coastal wetlands, as defined pursuant to P.L.1970, c.272 (N.J.S.A. 13:9A-1 et seq.);

5. Land located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (N.J.S.A. 13:20-7); or

6. Forested land and associated transition zones, as defined pursuant to N.J.A.C. 14:8-12.2.

(c) A Dual-Use Solar Energy Project applying for an incentive Adder under the CSI Program shall not be subject to the siting limitations for covered agricultural lands as described in N.J.A.C. 14:8-12.4(a) through (g), but shall be subject to the siting restrictions in subsection (d) below.

(d) Dual-Use Solar Energy Projects are prohibited from locating on prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas (ADAs) certified by the SADC, unless the project is in association with a research study undertaken pursuant to the requirements at N.J.A.C. 14:8-13.10 in coordination with a New Jersey public research institution of higher education, as approved by the Board in consultation with the Secretary of Agriculture.

(e) The land on which the Dual-Use Solar Energy Project is installed shall have had at least the previous three years in continuous agricultural or horticultural usage, as demonstrated by participation in the State's farmland assessment program pursuant to the New Jersey Farmland Assessment Act of 1964, P.L.1964, c.48 (N.J.S.A. 54:4-23.1 et seq.). Pursuant to this subchapter, the landowner shall prepare and provide to the Board, as part of the EOI in applying to the Pilot Program as described at N.J.A.C. 14:8-

13.7(a), a signed affidavit attesting to the historical agricultural or horticultural use of the land prior to the installation of a Dual-Use Solar Energy Project.

(f) Nothing in this subchapter shall be construed to permit siting of Dual-Use Solar Energy Projects on preserved farmland, unless affirmatively allowed pursuant to N.J.S.A. 4:1C-32.4 et seq.

(g) Co-location of solar facilities shall be subject to specific review and permission by the Board through the application process and the SuSI Program rules at N.J.A.C. 14:8-11.

(h) Any entity seeking to locate a Dual-Use Solar Energy Project on prohibited land uses as described in N.J.A.C. 14:8-13.6(b) may file a petition with the Board in accordance with the requirements of N.J.A.C. 14:1-1.2(b) seeking to waive the prohibition for the entity's special case and for good cause shown. The Board, or its designee, shall make a positive finding with regard to any such petition only upon:

- 1. Consulting with other State agencies, as appropriate;**
- 2. Determining that the petitioner has documented sufficient facts and circumstances establishing the public's specific interest in siting the proposed Dual-Use Solar Energy Project on or within a specific prohibited land use; and**
- 3. Finding that the waiver is in the public interest.**

(i) The Board, or its designee, may request additional documentation or evidence from a Dual-Use Solar Energy Project prior to approving or denying a request for any waiver pursuant to this section.

14:8-13.7 Pilot Program solicitation process

(a) Each solicitation round will commence with a Board order, which shall include a proposed annual capacity target for the solicitation round and a directive to Board staff to issue a NOFA for one or more application periods. A NOFA issued by Board staff will contain any requirements or minimum criteria anticipated for applicants for that application period. The NOFA will also contain instructions for potential

applicants to submit EOIs and pre-qualify their proposed Dual-Use Solar Energy Projects for the upcoming application period. All forms and instructions regarding the Pilot Program solicitation process shall be found on the Board's website at www.nj.gov/bpu.

1. Instructions for an applicant's completion and submission of an EOI shall include a due date and the method of submission.

2. An EOI will be required of each applicant as a prerequisite for submittal of a Dual-Use Pilot Program application.

3. The EOI shall identify the proposed project team. It must also include signed certifications from the landowner, the solar operator, and the farmer, as applicable, attesting to their familiarity with the requirements for participation in the Pilot Program as described in these rules, as well as to the accuracy of the submitted documents. The EOI must also include a written lease agreement between the landowner, the solar operator, and the farmer, as applicable. The lease agreement must be effective for a minimum of three years. Any changes to the lease agreement must be submitted as a modification to the Construction, Operations, Monitoring, and Project Research Plan ("COMPR"), as described at N.J.A.C. 14:8-13.7(k), within 90 days of said changes becoming effective.

4. The EOI shall identify the basic characteristics of the proposed Dual-Use Solar Energy Project, including, but not limited to, the following:

i. municipal tax map with the block and lot location of the farm parcel clearly identified that shows the delineation of the proposed project site and any fencing;

ii. Solar capacity;

iii. Array type including a description of any innovative design or technology proposed;

iv. Calculation of the land area covered by the array and control area;

v. A description of the agricultural or horticultural use of the proposed project site over the previous three years;

vi. A description of the agricultural or horticultural activities proposed on the areas under and adjacent to the array;

vii. The most recent 12 months of historic electricity consumption according to a utility bill showing the site host's name, address, and electric tariff, if applicable, if the project is proposed to be net metered;

viii. Anticipated means of electricity sale;

ix. Current state of project maturity including any design, contracting, legal, permitting or zoning review work performed and status of interconnection to a distribution or transmission system operated by a New Jersey electric public utility or local government unit;

x. anticipated construction schedule, including anticipated cost milestones and development milestones, if available;

xi. Estimated total installed cost including solar equipment, research required pursuant to the Pilot Program rules, monitoring and data collection equipment, labor, and soft costs;

xii. Estimated incremental costs, as a subset of total installed costs, to be incurred as a result of participation in the Pilot Program specific to the agricultural or horticultural aspects of the Dual-Use Solar Energy Project;

xiii. Estimated Dual-Use Incentive Adder required to cover incremental costs; and

xiv. Contact information for one representative appointed by the project team to serve as point of contact for Board staff and to be responsible for submitting documents required throughout the solicitation process.

(b) Board staff shall provide initial feedback to potential applicants about the quality of their Dual-Use Solar Energy Project proposals, including any modifications required to obtain pre-qualification, no less than 30 days prior to the opening of the applicable application round. An approval from the relevant EDC or regional transmission organization to construct or interconnect the proposed project is not required prior to submission of an EOI or as a condition of project pre-qualification.

(c) Board staff shall compile the results of the EOI, including number of proposed Dual-Use Solar Energy Projects submitted, cumulative capacity, array types, and agricultural and horticultural activities proposed.

(d) Board staff shall report the compiled results of the EOI to the Board along with a recommendation for establishing a capacity target for the application period, any capacity set asides, any application fees, and any minimum criteria in addition to those contained in this subchapter for participation in the related solicitation round.

(e) Based on the results of the EOI and Board staff's recommendations, for each application period, the Board shall establish a standard form of application for participation in the Pilot Program, the detailed minimum criteria for evaluating and scoring applications, and application fees, if needed. Any application fees collected shall be submitted to New Jersey's Clean Energy Program to offset ratepayer costs used to administer the Pilot Program.

(f) The application must include the information listed in subsection (a) above that is required to be submitted with the EOI and must also include the following:

1. An updated municipal tax map, showing block and lot location of the farm parcel clearly identified that shows the delineation of the proposed site, its associated research control areas, its proposed location of the balance of system equipment and solar array, and any fencing, if changes have been made to the submission under the EOI; and

2. Documentation demonstrating how the applicant proposes to meet the minimum criteria.

(g) To enable the Board to assemble a diverse pool of Selected Projects representing varying sizes and involving diverse types of agricultural and horticultural production, minimum criteria that will be considered by the Board in evaluating and scoring an application include, but are not limited to:

1. Proposals for monitoring the quality of agricultural or horticultural use of the land including the identity and role of any third-party consultant or New Jersey public research institution of higher education that has not been contracted with the Board for purposes of providing Pilot Program research activities;

2. The incentive level the applicant seeks, including the ADI Program or CSI Program incentive amount, if known, and, if required, an Adder designed to supplement the value of an ADI Program or CSI Program incentive;

3. Geographic location, including whether part of an overburdened community or in an underserved community;

4. Interconnection planning status including, but not limited to, demonstrated proof of submission of an interconnection application;

5. Proposals for minimizing and mitigating negative impacts to farmland during construction, operation, and decommissioning;

6. Proposals to address decommissioning of the Dual-Use Solar Energy Project equipment, including both procedures and funding consistent with provisions pursuant to N.J.A.C. 14:8-13.12;

7. Proposals for addressing stormwater runoff and other environmental issues;

8. Technical feasibility;

9. Technical innovation;

10. The quality of the proposed design of the research plan pursuant to N.J.A.C. 14:8-13.10 that includes providing crop performance data and other data related to the productivity and viability of dual-use solar and demonstrates the project team's willingness to participate in the research studies required of all approved projects; and

11. A three-year plan for the farming operation intended to occur below and adjacent to the solar array including any special operational requirements specific to the solar array. The three-year plan shall include, but is not limited to, crop types, cover cropping, standard agricultural practices, and other cultural practices over this period that are deemed necessary.

(h) The application evaluation criteria in each solicitation round will be defined to seek diversity and innovation in agricultural and horticultural use, as well as project size. The evaluation criteria used to score applications, any application fees required, and any minimum criteria for participation in the solicitation round will be contained in the standard form of application, which will describe the information to be submitted to Board staff for evaluation.

(i) Following the close of an application period, Board staff, in consultation with the Secretary of Agriculture or the Secretary's designee, will review applications for administrative completeness. If an application is deficient, Board staff will advise the applicant which items must be remedied to correct the deficiencies. Applications with deficiencies will be granted an opportunity to cure within 10 business days of receipt of the notice of deficiencies. Board staff may reject as administratively incomplete applications that are substantively incomplete at the close of the cure period, that are not in compliance with this subchapter, or that do not meet requirements for selection, as set forth in the application approved by the Board pursuant to N.J.A.C. 14:8-13.7(e) and the selection process outlined pursuant to this subchapter. Board staff may request that an applicant provide additional or modified information to complete its application.

(j) The Board shall consult with the Secretary of Agriculture in the review and approval of all Dual-Use Solar Energy Projects under the Pilot Program. Board staff, in consultation with the Secretary of Agriculture, shall score applications deemed complete pursuant to subsection (i) above based on robustness of responses to the criteria for evaluation established in the application form. Board staff will present to the Board the results of its evaluation of the applications, the advice of the Secretary of Agriculture, and a recommendation for approval or denial for each application as well as any conditions for approval. **The Board shall within 180 days after receipt, approve, disapprove, or approve with conditions an application submitted pursuant to this subchapter. The 180-day period for the Board to approve, conditionally approve, or deny the application will commence on the date the complete application was filed.**

1. **The Board may opt to select Dual-Use Solar Energy Projects until the program capacity target for that Program Year is filled. The Board is not obligated to select projects if an application period or solicitation round is undersubscribed. The Board may select projects with total capacity that exceeds the annual or per application period capacity target if a solicitation round or application period is oversubscribed.**

2. The Board shall memorialize the results of an application period in a Board order which includes summary information describing the responses to the application for that application period, projects selected for an award, and authorization to Board staff to issue award letters to selected applicants. The project award letters shall specify any terms and conditions governing project eligibility for Adders.

(k) Key elements of the application materials submitted for Selected Projects shall form the basis of a COMPR. **A COMPR shall establish a record for an applicant's project's planned design, construction, operation, maintenance, monitoring, and terms and conditions for maintaining eligibility for the Pilot Program incentive Adder. The Board order conditionally approving the project application and any terms or conditions imposed as part of the approval will become part of the COMPR as described further in N.J.A.C. 14:8-13.13.**

(l) All solicitation rounds and associated application periods shall otherwise follow the processes and procedures identified in this subchapter.

(m) In the application evaluation and selection process, Board staff may recommend to the Board that it is appropriate to limit the number of projects approved for a single applicant in a Program Year in order to promote a diverse pool of applicants.

14:8-13.8 Conditions for a project awarded an incentive

(a) Each project shall be equipped with a utility revenue grade meter dedicated to the measurement of the electricity produced for the purpose of SREC-II creation. For net metering customer-generators, this production meter is additional to the meter owned and used by the EDC for billing purposes.

(b) An appointed representative of a Selected Project team must provide, on an annual basis on the anniversary of commencing commercial operations, evidence as described in this subsection that the land on which the Dual-Use Solar Energy Project is installed continues to be actively devoted to agricultural or horticultural use. Pilot participants must demonstrate that the farm parcel on which the project is located is continuously participating in the State's farmland assessment program pursuant to N.J.S.A. 54:4-23.1 et seq. through submission of the following:

1. Documentation in the form of the farm's application for farmland assessment pursuant to N.J.A.C. 18:15, referred to as Form FA-1, that the farm parcel containing the Selected Project's block and lot qualified for New Jersey Farmland Assessment for the previous year.

2. For each year throughout the lifetime of the Dual-Use Solar Energy Pilot Program award, the farm's current year Form FA-1 shall be submitted to the Board's Secretary's Office as an amendment to the COMPR.

(c) Any Dual-Use Solar Energy Project approved to participate in the Pilot Program that does not maintain active agricultural or horticultural use of the land risks forfeiture of future solar incentive payments.

(d) Within 90 days of receipt of notice of selection for a Dual-Use Solar Energy Pilot Program award, a report prepared by a qualified soil scientist or geotechnical engineer is required to be added to the COMPR on the pre-construction soil quality characteristics across the project site, solar array, and research control area, on a 100-foot by 100-foot grid that enables the determination of erosion potential using the Revised Universal Soil Loss Equation including:

- 1. Soil map unit;**
- 2. Soil textural classification;**
- 3. Hydrologic soil group;**
- 4. Organic matter content;**
- 5. Salinity;**
- 6. Macro nutrient content (phosphorous, potassium);**
- 7. Bulk density;**
- 8. Overall slope; and**
- 9. Topography of the project site.**

14:8-13.9 Installation, construction, and operational requirements

(a) Selected Project teams and their Selected Projects shall comply with all applicable federal, State, or local laws, rules, regulations, or ordinances.

1. Notwithstanding any law, ordinance, rule, or regulation to the contrary, a Selected Project approved pursuant to this subchapter shall be a permitted use within every municipality in New Jersey.

2. Selected Project teams seeking protection for their projects under New Jersey's Right to Farm Act, N.J.S.A. 4:1C-1 et seq., must comply with the relevant provisions of the agricultural management practices at N.J.A.C. 2:76-2A.12 through 2A.13 and not pose a direct threat to public health and safety.

3. All Dual-Use Solar Energy Projects shall comply with the NJDEP’s Stormwater Management Rules, N.J.A.C. 7:8.

(b) Selected Projects shall conform to all codes, standards, and licensing requirements that were applicable at the time the project was constructed.

1. If fencing is required pursuant to any code, ordinance, permit requirement or statute, the Selected Project team shall install fencing at least eight feet tall around the entire project site including the dual-use array and control areas. Alternatively, separate and distinct fences may be installed around the dual-use solar array and around the research control area as long as the fencing for each is of similar length, height, and configuration.

(c) Dual-Use Solar Energy Projects must be connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit.

(d) Dual-use system designs which incorporate permanent agricultural structures are not eligible to participate in the Pilot Program. This prohibition includes designs with non-permanent agricultural structures that are directly attached to permanent structures.

(e) Participants shall also incorporate the following additional design standards when developing a project for the Pilot Program:

1. Arrays must be designed taking into account the requirements for the specific farming practices and the energy collection impacts of particular design features, to minimize negative impacts to the farming operations and the land.

2. Array designs must be compatible with long-term, continued use and enable sites to support diverse future agricultural and/or horticultural activities.

3. Key parameters for designing a solar array under the Pilot Program must include, but need not be limited to, farm yields, electricity production capacity, location of modules and system equipment,

dimensions, array height, row spacing, tilt or track angle limits, orientation, mounting configuration, and row alignment. Selection of row alignment must consider impacts from, including but not limited to, land boundaries, erosion prevention, elevation contours, water features, roads, and buildings.

4. Designs must demonstrate consideration of the geometry of the subject parcel and solar array such that the array's location, orientation and configuration minimizes and accounts for edge effects pertaining to the relationships between the solar array, plant growth, and farm equipment accessibility. The project design must facilitate the ability to operate farm equipment around the edges of modules and array racking such that farm activities are minimally disrupted.

5. The project site of a Selected Project must include a research control area, or area of farmland without solar panels but otherwise equal in potential agricultural productivity and all extraneous factors affecting agricultural productivity characteristics compared to the area under and adjacent to the solar array. The research control area will be used to compare the performance of the crop or animals raised with the same crop or animals below and adjacent to the solar array.

i. The land within the research control area must be farmed by the same farmer using the same cultural practices as those employed in the area under and adjacent to the solar array.

ii. For solar array projects less than or equal to 3.0 acres, the research control area must be equal in size to the entire area of land containing the solar array, including the area between panels and rows. For solar array projects greater than 3.0 acres, the required control area size is no less than 3.0 acres.

6. The use of concrete in structural footings is prohibited, unless written justification is supplied by a licensed professional engineer. The use of concrete shall be acceptable for the purposes of installing a shallow concrete pad for placement of balance of system equipment such as inverters or transformers.

7. Array designs shall plan for minimizing the impacts on soils and anticipate the need for rotating crops annually and interannually.

8. If applicable, the design shall account for ensuring the safety of animals. For farms that incorporate agritourism, an element of the design shall also account for protecting the public and ensuring public safety around the solar array and its associated infrastructure.

9. Designs shall also incorporate any additional metric(s) deemed necessary to inform a permanent program, as established by the Board order preceding each application period.

(f) Farming activities occurring below and adjacent to the solar array and within the designated research control areas shall follow the current three-year plan contained within the COMPR on file with the Board Secretary's office.

1. The three-year plan incorporated into the COMPR must include, but is not limited to, crop types, cover cropping, standard agricultural practices, and other cultural practices over this period that are deemed necessary.

2. Changes to agricultural and horticultural practices anticipated to occur within the next three years must be submitted as a request to modify the COMPR to Board staff, and/or its designee, for review and approval. Board staff will respond to a request to change a three-year plan within 10 business days and provide a final determination within 30 calendar days. If the Selected Project team disagrees with Board's staff's determination, Selected Project teams may petition the Board for relief.

(g) Selected Projects must become fully operational, including having monitoring equipment installed for the Selected Project, within the timeframes required under the applicable SuSI Program pursuant to N.J.A.C. 14:8-11 for the ADI Program or the CSI Program as applicable. Projects that are awarded a dual-use incentive and are registered in the SuSI Program shall be eligible for the extension opportunities afforded to projects in their respective ADI Program or CSI Program.

14:8-13.10 Monitoring and research requirements

(a) The COMPR shall establish the minimum monitoring and research requirements for a Selected Project throughout the life of the project. A New Jersey public research institution of higher education may serve as the primary designer and organizer of research studies involving projects selected as part of the Pilot Program. The minimum requirements for a Selected Project must be included in the COMPR and include metrics that monitor and track:

1. The quality of agricultural and horticultural use of the land including but not limited to separate reporting of yields within the solar array-covered and the research control area;

2. The amount of electricity generated;

3. Impacts on the land;

4. Stormwater runoff and other environmental issues; and

5. Any additional parameters deemed necessary for researching and evaluating the Pilot Program as established by the Board order preceding each application period.

(b) Data collection for Dual-Use Solar Energy Projects not located in ADAs must include the following information pertaining to the project site:

1. Name, phone number and email address for each member or entity of the Selected Project team;

2. Postal address of the proposed land parcel on which the Dual-Use Solar Energy Project will be located, if applicable;

3. GPS coordinates;

4. Soil type and topography;

5. For net-metered projects, two-year record of electricity consumption, in the form of utility bills, prior to solar array installation;

6. Type of agricultural or horticultural activity;

7. Solar array size, including ground area, type, panel specifications, number of panels, and nominal production;

8. Size of area within the solar array area rendered unfarmable by the solar array structure and the location and size of area of any required infrastructure, meaning the balance of system equipment;

9. Installation date that specifies the first day of operation of the solar array;

10. Name of local electric utility;

11. Name of the solar developer involved with the project design and installation; and

12. Any additional metric(s) deemed necessary to inform a permanent program, as established by Board order with each application period.

(c) Data collection for Dual-Use Solar Energy Projects located in ADAs must include the parameters established at (b) above in addition to any other metric(s) deemed necessary to inform a permanent program pertaining to the project site, as established by Board order with each application period.

(d) Data collection for Dual-Use Solar Energy Projects not located in ADAs must include the following information pertaining to crop production:

- 1. Type of crop;**
- 2. Sowing or transplanting date;**
- 3. Sowing or transplanting rate;**
- 4. Harvest date for both the solar array covered area and research control areas, separately;**
- 5. Crop yield for both the solar array covered area and research control areas, separately;**
- 6. Information on whether having an agrivoltaic array on-farm has led the farmer to introduce, expand, decrease, or stop production of specific crops; and**
- 7. Any additional metric(s) deemed necessary to inform a permanent program, as established by the Board order for each application period. Additional metrics may include data on the impacts of agrivoltaics on farm viability and data on farmers' experiences with agrivoltaics, including challenges encountered and adaptations made to farm operations due to the introduction of agrivoltaics.**

(e) Data collection for Dual-Use Solar Energy Projects located in ADAs must include the parameters established at (d) above for crop production, in addition to the following:

- 1. Pre-planting soil prep, including dates;**
- 2. Type of pre-planting soil prep;**
- 3. Sowing or transplanting equipment used;**
- 4. Applications of fertilizer, including dates, rates, and equipment;**
- 5. Applications of chemicals, including dates, rates, and equipment;**
- 6. Post-planting soil and crop maintenance;**
- 7. Equipment used for post-planting soil and crop maintenance;**

8. Irrigation methods, including dates and rates, if applicable;

9. Harvesting equipment used;

10. Post-harvesting soil maintenance, if applicable; and

11. Post harvesting cover crop planting and maintenance, if applicable.

(f) Data collection for Dual-Use Solar Energy Projects not located in ADAs must include the following information pertaining to animal production:

1. Type of animal;

2. Type of grazing strategy, including procedures, dates, and number of grazing days;

3. Average start weight of animals when put on pasture, including date;

4. Yield of hay/silage;

5. Supply of drinking water, including name and type of system and rate;

6. Average end weight of animals when removed from pasture, including date, if applicable;

7. Grass maintenance after animals are removed from pasture, including dates, if applicable;

8. Direct reporting on whether having an agrivoltaics array on-farm has led the farmer to

introduce, expand, decrease, or stop production of specific livestock types; and

9. Any additional metric(s) deemed necessary to inform a permanent program, as established by Board order with each application period. Additional metrics may include data on the impacts of agrivoltaics on farm viability and data on farmers' experiences with agrivoltaics, including challenges encountered and adaptations made to farm operations due to the introduction of agrivoltaics.

(g) Data collection for Dual-Use Solar Energy Projects located in ADAs must include the parameters established at (f) above for animal production in addition to the following:

1. Grass maintenance, including fertilizers, chemicals, dates, and rates;

2. Equipment used for grass maintenance;

3. Procedures and equipment used for hay/silage production, including dates; and

4. Equipment used for pasture maintenance after animals are removed, including dates, if applicable.

(h) Data collection for all Dual-Use Solar Energy Projects pertaining to environmental conditions, including but not limited to, air temperature, solar radiation, relative humidity, and soil temperature, must adhere to the procedures set forth in this subsection.

1. Data should be recorded in time intervals of no longer than one hour.

2. If recording a single value for a specific time interval, that value should be the average measurement of all the measurements collected during that time interval.

3. All environmental data should be collected in duplicate: One measurement at a representative location in the control area, which is unobstructed by any solar panel, and the other at a comparable location in the dual-use area impacted by the solar panels. The locations must be those which were approved in the most recent version of the COMPR for the Selected Project.

4. Sensors should be calibrated and re-calibrated as needed, according to manufacturers' recommendations.

(i) Data collection for Dual-Use Solar Energy Projects not located in ADAs must include the following information pertaining to environmental conditions:

1. Solar radiation measured horizontally;

2. Air temperature using an aspirated box;

3. Air relative humidity using an aspirated box;

4. Soil temperature at 6 inches below the surface;

5. Soil volumetric water content at 6 inches below the surface; and

6. Any additional metric(s) deemed necessary to inform a permanent program, as

established by Board order with each application period.

(j) Data collection for Dual-Use Solar Energy Projects located in ADAs must include the parameters established at (i) above for environmental conditions in addition to precipitation, including date and amount.

(k) Data collection for all Dual-Use Solar Energy Projects must include the following information pertaining to solar array performance:

1. Electricity production using time intervals of no less than one day;

2. For net-metered projects, monthly accounting of any additional electricity purchased from the local utility;

3. Income to farmer/landowner from lessee for projects with a leased array site;

4. Performance of individual solar panels, if available;

5. Solar irradiance as measured at the array, such as a sensor attached to a tilting panel, if applicable;

6. Maintenance and repairs to the solar equipment, if applicable; and

7. Any additional metric(s) deemed necessary to inform a permanent program, as established by Board order with each application period.

(l) Data collection for all Dual-Use Solar Energy Projects must include the following information pertaining to general attitudes, experience with dual-use, and policy views:

- 1. Survey scale to examine the overall valence of farmers' views toward agrivoltaics as an agricultural technology and how this changes with further experience;**
- 2. General reporting of challenges farmers encountered with agrivoltaics, including whether or how these challenges were overcome, and whether adaptations were made to farm operations due to the introduction of agrivoltaics;**
- 3. Farmers' views regarding possible public policies that would encourage or advance agrivoltaics in New Jersey; and**
- 4. Any additional metric(s) deemed necessary to inform a permanent program, as established by Board order for each application period.**

14:8-13.11 Compliance and remediation

(a) In cases involving the failure of a Selected Project team to comply with the terms and conditions for participation in the Pilot Program including any conditions specified by the Board in an order, the Board reserves the right to impose penalties on a Selected Project commensurate with the documented infraction. Board staff shall document the terms or conditions violated, share the findings with the Selected Project team, and explore opportunities to cure the violations. In cases where the project team is unable or unwilling to cure the violations, the Board may:

- 1. Order the dual-use incentive to be withheld until the violation is resolved;**
- 2. Seek rescission of the dual-use incentive paid to the project for a period of time to be determined by the Board; or**
- 3. Require the developer to decommission the project pursuant to N.J.A.C. 14:8-13 and make the land suitable for its prior agricultural or horticultural usage.**

(b) The NJDA may request that the Board suspend or revoke an approval issued pursuant to this subchapter for a violation of any term or condition of the approval or any provision of this subchapter, unless caused by force majeure.

1. In the case of force majeure, the Board may determine, in consultation with the NJDA, that the applicable event or circumstances caused the violation.

2. Dual-Use Solar Energy Projects awarded incentives in the Pilot Program as an Adder or a supplemental incentive under the ADI Program or CSI Program pursuant to N.J.A.C. 14:8-11 must adhere to the applicable requirements for the lifetime of the project and these requirements shall be enforceable under this subchapter.

(b) The Board shall work with the NJDA to audit compliance with the terms of the Pilot Program, including periodic site visits, and work with the Selected Project team to remedy any non-compliance with the requirements set forth in this subchapter in accordance with (c) below.

(c) The Board or its designee shall contact the Selected Project team in writing that its Dual-Use Solar Energy Project approved to participate in the Pilot Program is not meeting the requirements of the Pilot Program. The Selected Project team shall be subject to the following enforcement procedure:

1. The Selected Project team shall be placed on probation for a time period between 30 and 120 days, within Board staff's discretion (probationary period).

2. The Selected Project team shall submit a remedial action plan to remedy the deficiency, or deficiencies, to the Board within 30 days of receiving written notification from the Board, for review and approval prior to implementing remedial action.

3. During the probationary period, any financial incentive in the form of the SREC-II shall be withheld pending successful resolution of the violation.

4. If the Selected Project team fails to correct the deficiency or deficiencies, including implementing the remedial action plan approved by the Board, by the end of the probationary period, the Selected Project may be terminated from the Pilot Program, and the incentive for the dual-use pilot project suspended.

14:8-13.12 Decommissioning procedures

(a) Decommissioning procedures for Dual-Use Solar Energy Projects applying for and approved as Selected Projects that will participate in the Pilot Program, at a minimum, must account for the following:

1. The sequence for facility infrastructure removal and site restoration to prior agricultural conditions in the event that solar installations will be removed;

2. The party responsible for removal and restoration back to prior agricultural conditions in the event that solar installations will be removed;

3. The party responsible for the costs of decommissioning;

4. The prevention of topsoil within inter-panel row travel lanes from becoming compacted or otherwise co-mingled with subsoil layers by construction traffic; and

5. Any additional procedure(s) deemed necessary to inform a permanent program, as established by Board order preceding each solicitation round or Program Year.

14:8-13.13 Reporting and recordkeeping

(a) The COMPR derived from a Selected Project's application and associated conditions for approval shall form the basis of the primary reporting and recordkeeping tool documenting the project's participation in the Pilot Program.

(b) A COMPR shall be used in the evaluation of the individual project and in the evaluation of the Pilot Program to inform the design of a permanent dual-use program.

(c) The COMPR shall be kept current over the life of the project with updates supplied by the project team and Board staff. The COMPR will be posted to the Board's public document website, including any updates submitted to the Board Secretary's Office in consultation with Board staff.

1. The COMPR shall be kept updated throughout the term of a Dual-Use Solar Energy Pilot Program award and until the expiration of the 15-year qualification life. For the duration of the Pilot

Program, the COMPR shall be updated by the project team annually per the anniversary of the commencement of commercial operations for the Selected Project.

(d) A Selected Project shall provide annual updates to Board staff on the status of its progress through a form to be made available by Board staff. Annual updates shall be due on the anniversary of the Selected Project's commencement of commercial operations. Selected Projects shall meet additional reporting requirements pursuant to this subchapter.

(e) Requests from the Selected Project team to change any provision of the project must be submitted in writing to the Board Secretary and approved by Board staff in consultation with NJDA. Requests to modify a provision of the Selected Project will be reviewed and approved or denied in writing by Board staff within 30 days of receipt by the Board Secretary.

(f) The Board must be notified, in writing, in case of sale, transfer, contract modification, or other material change to the Selected Project team initially listed in the dual-use solar application. Specifically:

1. Within 30 days of a material change in control of the project, each new beneficial owner is required to provide formal notice and evidence to the Board of its individual and/or corporate name, tax ID, address, contact phone, and percent of ownership of the project.

2. Within 30 days of a material change in the Dual-Use Solar Energy Project operator, such new project operator is required to provide formal notice and evidence to the Board of their individual and/or corporate names, tax ID, address, and contact phone.

(g) Each Dual-Use Solar Energy Project owner, and any successor, shall retain a record of all COMPRs, including revisions thereto, contracts, disclosure forms, proof of eligibility, and generation allocation lists for a period of at least 15 years from the date of the project's approval. Each of these documents must be made available within 14 business days upon request from the Board or Board staff.

1. Dual-use solar developers and owners are responsible for complying with all subsequent revisions approved by the Board staff and maintaining a current copy of the COMPR on the public

document page of the Board's website using the docket number assigned to the Selected Project's application.

2. Board staff shall inform a participant in the Pilot Program of non-compliance with a term or condition of approval of a Selected Project by written notice, which shall be emailed to the Selected Project team. The written notice shall include a description of any violation or conditions that require remediation and instructions for submitting a remedial action plan. A COMPR must be updated within 30 calendar days of the Board staff's approval of the remedial action plan.

3. The landowner listed in the COMPR is responsible for notifying the Board of any changes in the ownership of the land or change of farmer or solar operator. This notification will be done through a request to change provisions of the COMPR and must be submitted in writing to the Board Secretary and approved by Board staff in consultation with NJDA.

(h) The Board shall publish information pertaining to the Pilot Program on its website including, but not limited to:

1. NOFA, instructions for filing a pre-application EOI, solicitation details, application requirements, forms, and evaluation criteria;
2. The list of Selected Projects, including names, locations, sizes, and approval status;
3. The total capacity of selected, registered, and approved Dual-Use Solar Energy Projects for each Program Year;
4. Educational materials and resources; and
5. Other information relevant to the status of the Pilot Program.

(i) EDCs shall track the application to interconnect submitted by Dual-Use Solar Energy Projects and submit quarterly electronic reports to Board staff on Pilot Program interconnection status, within 30 days

of the end of the quarter being reported upon. The content of the reports shall include, but not be limited to:

1. A list of Dual-Use Solar Energy Projects that submitted an interconnection application, including the project's name, location, and proposed capacity;

2. A list of Dual-Use Solar Energy Projects interconnected over the previous month, including name, location, and capacity;

3. The cumulative totals since the beginning of the Pilot Program which shall include the total number of interconnection applications received for Dual-Use Solar Energy Projects, total number of Dual-Use Solar Energy Projects interconnected, total capacity of Dual-Use Solar Energy Projects interconnected, and estimated total kilowatt hours supplied to the distribution system by Dual-Use Solar Energy Projects.