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MEMORANDUM

FROM: Katherine E. Kulbok
Assistant Attorney General

TO: Michael Rolband, Director
Department of Environmental Quality

DATE: May 18, 2026

RE: Review of Proposed Changes — 9 VAC 15-60

Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the individual staff member providing it.

In response to a request from the Department of Environmental Quality, I have reviewed the above-referenced regulations.

The Department has the authority to adopt regulations for permits by rule for small renewable energy projects. Va. Code § 10.1-1197.6. After reviewing the proposed amendments, it is my opinion that the Department has the authority to amend 9 VAC 15-60.

Furthermore, the Department included a statement, as required by Va. Code § 2.2-4012.1, that this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendment will improve clarity and certainty for the regulated community and the Department by correcting the definition of “mitigation district.”