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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Environmental Quality
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC15-60
<b>VAC Chapter title(s)</b>	Small Renewable Energy Projects (Solar) Permit by Rule
<b>Action title</b>	Amend 9VAC15-60 to comport with the requirements of Chapter 688 of the 2022 Acts of Assembly
<b>Date this document prepared</b>	May 9, 2024 (Revised July 10, 2024)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

[Chapter 688](#) of the 2022 Acts of Assembly, Regular Session, amends the Small Renewable Energy Projects (Solar) Permit by Rule (PBR), [9VAC15-60](#), which establishes criteria, procedures and permit requirements as stipulated under the Code of Virginia ([§10.1-1197.5 et seq.](#)). The existing solar PBR requires an analysis of the beneficial and adverse impacts of the proposed project on natural resources which includes wildlife and historic resources. If DEQ determines significant adverse impacts to wildlife or historic resources will occur, an applicant must submit a mitigation plan detailing reasonable actions to avoid, minimize, or otherwise mitigate such impacts, and to measure the efficacy of those actions.

Chapter 688 defines and adds prime agricultural soils and forest lands to the requirement for an analysis of the beneficial and adverse impacts to natural resources. If a potential solar project would disturb more than 10 acres of prime agricultural soils or 50 acres of contiguous forest lands, or if it would disturb forest lands enrolled in a forestry preservation program, it is deemed to have a significant adverse impact,

requiring the submission of a mitigation plan. If a draft mitigation plan was not provided by the applicant as part of the initial application, the applicant must develop a mitigation plan and conduct a 45-day public comment period. Any application for a small renewable energy project received for which an interconnection request is applied for and received by December 31, 2024, is not subject to these new provisions.

In 2019, DEQ followed the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), to [amend the Solar PBR regulation](#). DEQ proposed numerous amendments to the regulation concerning: 1) fees, 2) ecological cores (primarily forests), 3) threatened and endangered insects, 4) planting to attract pollinators, 5) historic resources, 6) timeframes, 7) projects with reduced requirements, and 8) clarifications. The purpose of this regulatory action was to clarify the regulatory requirements for applicants and permitted facilities in order to improve the current permitting process. The amendment went through the Notice of Intended Regulatory Action stage, a regulatory advisory plan (RAP) was formed and held multiple meetings, the draft regulation was subjected to public comment, a response to comments document was prepared and all appropriate reviews were conducted. However, promulgation was delayed, and the amendment did not go into effect. While the solar regulation is in the regulatory development process for amendments mandated by Chapter 688, DEQ will also incorporate certain proposed provisions from the 2019 Solar PBR amendment. Although fees were part of the 2019 amendment, governmental fees will not be included in this rulemaking process.

## Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.*

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- DEQ – means Department of Environmental Quality.
  - DHR – Department of Historic Resources
  - DOF – means Virginia Department of Forestry
  - HB – means House Bill.
  - MW – means Megawatt, a measure of generated electricity.
  - NOI – means Notice of Intent.
  - PBR – means Permit by Rule.
  - RAP – means regulatory advisory panel.
  - SCC – means State Corporation Commission
  - VDACS – means Virginia Department of Agriculture and Consumer Services
  - VLR – means Virginia Landmarks Register

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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House Bill 206 (HB206) was introduced during the 2022 General Assembly session. It was approved April 11, 2022, and enacted into law during the regular session of the 2022 General Assembly in Chapter 688 of the Acts of Assembly. Chapter 688 amends and reenacts § [10.1-1197.6](#) of the Code of Virginia, by requiring DEQ to consider significant adverse impacts to prime agricultural soils and forest lands. The statute specifies that a disturbance of (i) more than 10 acres of prime agricultural soils, (ii) more than 50 acres of contiguous forest lands, or (iii) forest lands enrolled in a forestry preservation program is deemed to be a significant adverse impact on natural resources. If DEQ determines that there will be a significant

adverse impact on wildlife, historic resources, prime agricultural soils, or forest lands, the applicant must submit a mitigation plan following a 45-day public comment period.

The regulation for Small Renewable Energy Projects (Solar) [9VAC15-60](#) became effective in 2012 and required that if the department determined that significant adverse impacts to wildlife or historic resources or both were likely, the applicant must prepare a mitigation plan. [Section 60](#) under 9VAC15-60 lists the mitigation measures to be taken by the applicant.

The program has grown rapidly and in 2017 there was a legislative modification to increase the size of projects eligible for a PBR from 100 MW to 150 MW. This increase in MW has resulted in much larger projects seeking permits which correlates to increased acreage per project. This increase has led to concerns about the loss of prime agricultural soils and forest land.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

### Statutory Authority

Code of Virginia [§ 10.1-1197.6](#) and [Chapter 688](#) of the 2022 Acts of Assembly

### Promulgating Entity

Department of Environmental Quality

### Federal Requirements

There are no federal standards associated with this regulation

### State Requirements

- Code of Virginia Sections [10.1-1197.5](#) through [10.1-1197.11](#),
- [Chapter 688](#) of the 2022 Acts of Assembly
- Administrative Code Chapter 60, Small Renewable Energy Projects (Solar) Permit by Rule, [9VAC15-60](#)

## Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

This regulatory action is necessary in order for DEQ to carry out the requirements of the 2022 Acts of Assembly Chapter 688. The regulatory action is essential to protect the health, safety, and welfare of Virginia citizens by establishing necessary requirements (in addition to those already established in 9VAC15-60), to protect Virginia's prime agricultural soils and forest lands which may be affected by the construction and operation of small renewable energy projects.

Potential Issues:

The proposed regulations attempt to balance the need for new renewable energy generation with adverse impacts to prime agricultural soils and forest land. There are limited ways to mitigate the impacts on-site to agricultural soils. These are included in the regulations. There are fewer ways to mitigate impacts to forests on-site because the removal of trees for solar panels necessarily removes the forest. For both resources, the primary mitigation proposed is to require off-site conservation easements that will permanently protect other farms and forests from all types of development.

DEQ based the proposal on numerous meetings of two regulatory advisory panels, however the panels did not reach unanimous support of all proposals. Potential issues include:

- Mitigation ratios
- Location of required mitigation
- Developer selection of conservation easements
- Complexity of on-site agricultural mitigation
- Credit for riparian buffers
- Cost of in-lieu fee
- Selection of trustee for in-lieu fee fund

**Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

The Small Renewable Energy Projects (Solar) Permit by Rule regulation establishes the specific criteria required for a complete application to construct and operate a solar project in Virginia. Additional substantive provisions that are being considered include:

- Add and clarify definitions;
- Add prime agricultural soils and forest lands to the existing requirement for the analysis of the beneficial and adverse impacts to natural resources;
- Add mitigation plan requirements for prime agricultural soils and forest lands;
- Clarify timeframe for submittal of a Notice of Intent (NOI);
- Clarify that avoidance mitigation as it relates to cemeteries is required to assure consistency with state law;
- Clarify requirements for site plans;
- Clarify public participation requirements;
- Specify the operation, recordkeeping, and reporting requirements;
- Clarify size of projects exempt from permitting;
- Clarify procedures for modification or transfer of ownership of a permitted facility;
- Incorporate other provisions previously identified in the 2019 solar PBR amendments (excluding fees); and
- Improve overall regulatory structure, procedures, and use.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth;*

and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

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The primary advantage of the regulation is the overall minimization of environmental damage as a result of the siting of solar facilities. The regulation encourages the avoidance of damage to prime soils and forest lands while assuring that any damage that does occur is appropriately mitigated. The regulation continues to facilitate the employment of solar power while establishing more protective mitigation measures. A potential disadvantage of the regulation is the increased cost to developers due to the implementation of the additional mitigation requirements. The increased cost may discourage developers from locating facilities in Virginia. The advantage to the department is the continued implementation of an overall streamlined process for authorizing solar facilities. The disadvantage includes the increased number of elements that will need to be reviewed and verified by department staff within the same 90-day authorization issuance deadline.

### **Requirements More Restrictive than Federal**

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

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This is a state-mandated regulatory action and as such there are no regulatory changes that are more restrictive than any federal requirement.

### **Agencies, Localities, and Other Entities Particularly Affected**

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

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#### Other State Agencies Particularly Affected

Department of Agriculture and Consumer Services (VDACS), Department of Forestry (DOF), Department of Historic Resources (DHR), State Corporation Commission (SCC).

#### Localities Particularly Affected

There are no localities particularly affected by this action.

#### Other Entities Particularly Affected

Solar-powered electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts.

### Economic Impact

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including:                  a) fund source / fund detail;                  b) delineation of one-time versus on-going expenditures; and                  c) whether any costs or revenue loss can be absorbed within existing resources.</p>	<p>The activities are budgeted under the following programs 402/513025 Fund 9036. The costs are expected to be ongoing.</p> <p>Costs of mitigation will be paid by applicants. The cost of administering the in-lieu fee funds will be included in the fees collected from applicants.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>It is not expected that the regulation will result in any cost to other state agencies beyond that currently in the budget. Some additional consultation with the Virginia Department of Agriculture and Consumer Services (VDACS) and the Virginia Department of Forestry (DOF) may be required for certain applications.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>Reduced impacts on prime agricultural soils and forest land and increased conservation of these resources.</p>

**Impact on Localities**

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>The projected cost of the regulation on localities is not expected to be beyond that of other affected entities. Mitigation requirements may save localities the cost of administering similar requirements in their zoning approvals.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>Establishment of mitigation districts will ensure that land will be conserved in the same approximate location of the project.</p>

**Impact on Other Entities**

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Solar-powered electric generation projects consisting of PV systems and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at a rated capacity equal to or less than 150 megawatts.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p>	<p>See ORM Economic Impact form.</p>

<p>a) is independently owned and operated, and;                  b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:                  a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;                  b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;                  c) fees;                  d) purchases of equipment or services; and                  e) time required to comply with the requirements.</p>	<p>See ORM Economic Impact form.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>Reduced impacts on prime agricultural soils and forest land and increased conservation of these resources.</p>

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

Alternatives to the proposal are being considered by the department. The department has tentatively determined that the #[number] alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered by the department, along with the reasoning by which the department has rejected any of the alternatives being considered, are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to meet the requirements mandated by § 10.1-1197.6 of the Code of Virginia, and to make clarifying amendments to further improve this regulation.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it does not meet the stated purpose of the regulation.
3. Take no action to amend the regulations and continue to implement a regulation that does not comport with state code. This option is not being selected because it does not meet the stated purpose of the regulation.

**Regulatory Flexibility Analysis**

*Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or*



reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

See ORM Economic Impact form.

**Periodic Review and Small Business Impact Review Report of Findings**

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

The regulatory action meets the criteria set out in EO 19 and the ORM procedures. It is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

The regulation continues to be needed. No complaints or comments were received concerning the regulation. The regulation is not unnecessarily complex. The regulation does not overlap, duplicate, or conflicts with federal or state law or regulation. The regulation was last evaluated in 2019; there have been no significant changes to technology, economic conditions, or other factors since then. As discussed in the ORM Economic Impact form, the regulation amendments may contribute a positive economic impact on small businesses.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the previous stage and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

No comment was received on this regulatory action.

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*



The department is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.

Comments may also be submitted by mail to Susan Tripp, P.O. Box 1105, Richmond, VA 23218, or by email at [susan.tripp@deq.virginia.gov](mailto:susan.tripp@deq.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

### Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

*If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.*

**Table 1: Changes to Existing VAC Chapter(s)**

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC15-60-10		None.	Definition of "active cropping including hayland" added to define an alternative plan that can be used in addition to partial mitigation options for prime ag soils to decrease mitigation ratios required for off-site conservation. No significant impact anticipated.
9VAC15-60-10			Definition of "administratively complete application" added. Needed to clarify application review process in 9VAC15-60-30 C. No significant impact anticipated.

9VAC15-60-10			Definition of "applicant" amended to clarify whom can submit a PBR application. No significant impact anticipated.
9VAC15-60-10			Definition of "begin commercial operation" added to establish timeline for notification and submission of as-built post construction site plan to DEQ. No significant impact anticipated.
9VAC15-60-10			Definition of "begin construction" added. Needed to clarify when applicant can legally begin construction and to clarify that a PBR can become invalid per new timelines added to subdivisions 9VAC15-30 C 1 a, b, and c. No significant impact anticipated.
9VAC15-60-10			Definition of "Brownfield" added to clarify permitting requirements in Section 9VAC15-60-130. No significant impact anticipated.
9VAC15-60-10			Definition of "C1 forest core" added to delineate areas subject to new mitigation requirements. Minor impacts anticipated as impacts to C1 forest cores will require either conservation easement(s) or in-lieu fee.
9VAC15-60-10			Definition of "C2 forest core" added to delineate areas subject to new mitigation requirements. Minor impacts anticipated as impacts to C2 forest cores will require either conservation easement(s) or in-lieu fee.
9VAC15-60-10			Definition of "CFR" added to reference definition of prime agricultural soils in the CFR. No significant impact anticipated.
9VAC15-60-10			Definition of "Coastal Avian Protection Zone" revised to remove reference to 9VAC15-60-120-C 1 as Section 120 is being repealed. No significant impact anticipated.
9VAC15-60-10			Definition of "conservation easement" added to define one of the mitigation measures available to an applicant when significant adverse impacts to prime ag soils or forests cannot be avoided in a project. Minor impacts to applicants as it will require them to obtain an easement or pay an in-lieu fee; however, these mitigation options are required by Chapter 688.
9VAC15-60-10			Definition of "conserved land" added. The total area of conserved land in a project must be calculated by the applicant and a plan must be submitted

			to DEQ identifying the plan to obtain conservation easement(s) for this total. Minor impacts to applicants as it will require them to obtain an easement or pay an in-lieu fee; however, these mitigation options are required by Chapter 688.
9VAC15-60-10			Definition of "contiguous forest land" added as the regulation states that a disturbance of 50 acres contiguous forest lands is considered a significant adverse impact requiring mitigation. Minor impacts to applicants as it will require them to obtain an easement or pay an in-lieu fee; however, these mitigation options are required by Chapter 688.
9VAC15-60-10			Definition of "department" amended. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "DCR Virginia Solar Site Pollinator/Bird Habitat Scorecard" added.as completion of the scorecard is required in 9VAC15-60-40 C 2. No significant impact anticipated.
9VAC15-60-10			Definition of "DGIF" deleted. Definition no longer needed. No significant impact anticipated.
9VAC15-60-10			Definition of "disturb" added. Needed in order to define a specific action integral to the regulation. No significant impact anticipated.
9VAC15-60-10			Definition of "disturbance zone" amended to clarify that the disturbance zone includes an additional 100-feet. Definition also clarifies that the disturbance zone for the DCR Virginia Solar Site Pollinator/Bird Habitat Scorecard includes additional areas. No significant impact anticipated.
9VAC15-60-10			Definition of "document certification" added as this is a new requirement in 9VAC15-60-30 B 2 a. Needed in order for the regulation to operate administratively. No significant impact anticipated.
9VAC15-60-10			Definition of "DOF" added. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "DWR" added. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "establishment and maintenance of pollinator smart habitat/vegetation" added to define an alternative plan that can be used in addition to partial mitigation options for

			prime ag soils to decrease mitigation ratios required for off-site conservation found in 9VAC15-60-60 E 4. No significant impact anticipated.
9VAC15-60-10			Definition of "forest land" added to delineate areas subject to new mitigation requirements. Minor impacts to applicants as it will require them to obtain an easement or pay an in-lieu fee; however, these mitigation options are required by Chapter 688.
9VAC15-60-10			Definition of "land disturbance" added as the term is used to assess where areas of impact occur that could require mitigation. No significant impact anticipated.
9VAC15-60-10			Definition of "managed grazing" added to define an alternative plan that can be used in addition to partial mitigation options for prime ag soils to decrease mitigation ratios required for off-site conservation. No significant impact anticipated.
9VAC15-60-10			Definition of "megawatt" added. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "mitigation district" added as conservation easements must encumber land in the same mitigation district. Minor impacts could occur as it could be difficult for the applicant to obtain a conservation easement in the same district.
9VAC15-60-10			Definition of "mitigation ratio" added to establish the ratios of land to be conserved for each area disturbed. The ratio can vary depending on mitigation options selected by the applicant. Minor impacts to applicants as project areas disturbing C1 or C2 ecological cores will have higher mitigation ratios.
9VAC15-60-10			Definition of "mitigation zone" added as the mitigation zone must be included on the site plan as required in 9VAC15-60-70A.
9VAC15-60-10			Definition of "notice of intent" needed in order for the regulation to operate administratively. No significant impact anticipated.
9VAC15-60-10			Definition of "open area" added to define the areas of a project being reviewed through the DCR Virginia Solar Site Pollinator Program. No significant impact anticipated.

9VAC15-60-10			Definition of "owner" modified to reflect that one must have a controlling interest in a project. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "panel zone" added to define the areas of a project being reviewed through the DCR Virginia Solar Site Pollinator Program. No significant impact anticipated.
9VAC15-60-10			Definition of "permit by rule" modified. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of Phase I Archeological Survey added to clarify type of survey required for the analysis of historic resources. No significant impact anticipated.
9VAC15-60-10			Definition of Phase I Architectural Survey added to clarify type of survey required for the analysis of historic resources. No significant impact anticipated.
9VAC15-60-10			Definition of "preconstruction" modified to clarify when desktop surveys, studies and mapping must occur. No significant impact anticipated.
9VAC15-60-10			Definition of "previously disturbed or repurposed areas" added to clarify the types of projects to be permitted under 9VAC15-60-130. No significant impact anticipated.
9VAC15-60-10			Definition of "prime agricultural soils" to delineate areas subject to new mitigation requirements. Minor impacts anticipated as impacts to prime ag soils will require either conservation easement(s) or in-lieu fee.
9VAC15-60-10			Definition of "project" needed in order for the regulation to operate administratively. No significant impact anticipated.
9VAC15-60-10			Definition of "rated capacity" modified to clarify that the rating is measured in MW. No significant impact anticipated.
9VAC15-60-10			Definition of "responsible person" added. Needed for clarity and in order for the regulation to operate properly. No significant impact anticipated.
9VAC15-60-10			Definition of "riparian forest buffer" added to clarify that creation of a riparian forest buffer can reduce mitigation ratio. No significant impact anticipated.
9VAC15-60-10			Definition of "screening zone" added to define the areas of a project being

			reviewed through the DCR Virginia Solar Site Pollinator Program. No significant impact anticipated.
9VAC15-60-10			Definition of "small renewable energy project" modified to include definition of energy storage facility. No significant impact anticipated.
9VAC15-60-10			Definition of "T&E" modified to add VDACS T&E species. No significant impact anticipated.
9VAC15-60-10			Definition of "USC" added. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "VDACS" added. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "Virginia Pollinator Protection Strategy" added to emphasize DEQ's participation in the strategy to increase pollinator habitat. Establishing pollinator habitat can offset prime ag soil mitigation. No significant impact anticipated.
9VAC15-60-10			Definition of "Virginia Natural Landscape Assessment Ecological Cores" added. to clarify that cores ranked C1 and C2 will require mitigation. No significant impact anticipated.
9VAC15-60-10			Definition of "VLR" modified. Needed for clarity. No significant impact anticipated.
9VAC15-60-10			Definition of "wildlife" amended to clarify that T&E insects are considered T&E wildlife. No significant impact anticipated.
9VAC15-60-20		Authority and applicability.	Catchline amended to more accurately reflect the activity. Needed for clarity. No significant impact anticipated.
9VAC15-60-20		Authority and applicability.	Text related to "authority" removed; no need to reiterate underlying authority (A). Citation corrected (C). Needed for clarity. No significant impacts anticipated.
9VAC15-60-30		Application for permit by rule for solar energy projects with rated capacity greater than five megawatts and disturbance zone greater than 10 acres.	Catchline amended to more accurately reflect the activity. Needed for clarity. No significant impact anticipated.
9VAC15-60-30 A		Application contents.	Removed all references to § 10.1-1197.6 B 2 of the Code of Virginia; no need to reiterate underlying authority. Amended to include NOI timeline and NOI administrative procedures including locality notification, expiration, project changes and ownership changes.

			Added clarifying language to the 15 provisions. No significant impact anticipated.
9VAC15-60-30 B		Submittal contents.	Amended by adding document certification statement and requirement for responsible person name and PBR contact information. No significant impact anticipated.
9VAC15-60-30 C		Department action.	Amended to include additional agencies potentially involved in application review. Added language regarding application determination, i.e., administratively complete vs. incomplete as well as the process and requirements for resubmission if necessary.
9VAC15-60-40		Analysis of impacts on natural and historic resources.	Catchline amended to more accurately reflect the activity. Needed for clarity. Removed all references to § 10.1-1197.6 B 2 of the Code of Virginia; no need to reiterate underlying authority. No significant impact anticipated.
9VAC15-60-40 A		Analysis of wildlife.	Amended to add desktop study for bald eagles. No significant impacts anticipated.
9VAC15-60-40 B		Preconstruction historic resources analysis.	Amended to add language that an architectural survey area may be refined by the applicant based on an analysis to exclude areas that have no direct view to the project. This could potentially reduce expenditures for the applicant.  Amended to add language that the survey may be guided by a research design that utilizes a probability assessment or predictive modeling. This could streamline archaeological investigations and potentially reduce expenditures for the applicant. No significant impacts anticipated
9VAC15-60-40 C		Preconstruction desktop survey of natural heritage resources.	Preconstruction desktop Virginia Natural Lands Assessment Ecological Cores added. Needed because projects that intersect with a C1 or C2 core will require mitigation. Minor impacts as mitigation ratios for C1 and C2 cores are higher than ratios for prime ag soils or forest.
9VAC15-60-40 D		Mapping of prime agricultural soils.	Language regarding summary report was moved from subsection D to F. New language in D requires applicant to map acres of prime agricultural soils on the site; also lists reporting requirements. Needed because impacts



			to 10 or more acres of prime ag soils requires mitigation required by Chapter 688. Minor impacts as applicant will be required to purchase a conservation easement or pay an in-lieu fee.
	9VAC15-60-40 E	Mapping of forest lands.	Language requires applicant to map acres of forest land on the site; also lists reporting requirements. Needed because impacts to 50 or more acres of forest requires mitigation required by Chapter 688.. Minor impacts as applicant will be required to purchase a conservation easement or pay an in-lieu fee.
	9VAC15-60-40 F		Language regarding summary report was moved from subsection D to F. Adds subsections D and E to the reporting requirements. No significant impacts anticipated.
9VAC15-60-50		Determination of likely significant adverse impacts.	Catchline amended to more accurately reflect the activity. Needed for clarity. No significant impact anticipated.
	9VAC15-60-50 C, D, E	Determination of significant adverse impacts.	Added language to specify that C1 and C2 ecological cores, 10 or more acres of prime ag soils, 50 or more acres of contiguous forest lands or forest lands enrolled in a forest preservation program are considered significant adverse impacts. Language needed because significant adverse impacts require mitigation. Minor impacts as applicant will be required to purchase a conservation easement or pay an in-lieu fee.
9VAC15-60-60 A		Mitigation plan.	Added language to specify mitigation in a siting agreement approved by a locality can satisfy mitigation requirements for the PBR under certain conditions. No significant impacts anticipated.
	9VAC15-60-60 D		Mitigation measures for C1 and C2 ecological cores added. Needed in order to meet the requirements of § 10.1-1197.6.
	9VAC15-60-60 E		Mitigation measures for prime agricultural soils added. Needed to meet the requirements of § 10.1-1197.6.
	9VAC15-60-60 F		Mitigation measures for forest land added. Needed to meet the requirements of § 10.1-1197.6.
	9VAC15-60-60 G		Requirements for all conservation easements added. Needed to meet the requirements of § 10.1-1197.6.

	9VAC15-60-60 H		Requirements for in-lieu fees added. Needed to meet the requirements of § 10.1-1197.6.
9VAC15-60-70 A, B		Site plan and context map requirements.	Amended to clarify information required to be shown on the site plan maps. Needed for clarity. No significant impacts anticipated.
	9VAC15-60-70 C		Added documentation required for submittal with post-construction site maps; required to verify acres in mitigation zone have not significantly changed from initial submittal to final site plan development. No significant impact anticipated.
	9VAC15-60-70 D		Submission requirements for as-built post construction site plans added for clarity. No significant impact anticipated.
9VAC15-60-80		Small solar energy project design standards.	Catchline amended to more accurately reflect the activity. Needed for clarity. No significant impact anticipated.
9VAC15-60-80 A		Mitigation plan to include design and installation information.	Amended to add pertinent citations. Needed for clarity. No significant impact anticipated.
	9VAC15-60-80 B		Requirements for operating plans added. Needed for clarity. No significant impact anticipated.
9VAC15-60-90 A - F		Public participation.	Moved public participation language from 9VAC15-60-30 A 14 to Section 90. Needed for clarity. No significant impact anticipated.
9VAC15-60-100		Change of ownership, project modifications, termination.	Catchline amended to more accurately reflect the activity. Needed for clarity. No significant impact anticipated.
9VAC15-60-100 A		Change of ownership.	Amended by changing submission date for a change of ownership from 30 days in advance to within 30 days of the transfer date, adding language that these changes won't become effective until notification is received from both the original applicant and the new applicant and to clarify that a change of ownership is considered an administrative amendment. No significant impact anticipated.
9VAC15-60-100 B		Project name change.	Amended to move language regarding modifications 9VAC15-100 C. Added new language to clarify that a name change is considered an administrative amendment. No significant impact anticipated.
9VAC15-60-100 C		Modifications.	Amended to move language regarding permit termination to 9VAC15-60-140 B. Amended to clarify the information required for submittal of a modification. Removed language stating that a

			modification cannot be used to increase the rated capacity of a project. A modification can be used to increase the rated capacity of a project as long as the additional rated capacity in the modification added to the rated capacity in the existing permit does not exceed 150 MW. No significant impact anticipated.
	9VAC15-60-100 D	Recordkeeping	Recordkeeping and reporting requirements added. Needed for procedural clarity and certainty. No significant impact anticipated.
9VAC15-60-110		Fees for projects subject to Part II of this chapter.	Amended to clarify that fees are not required for administrative amendments, to add language regarding electronic fee payment and to add information required on the application fee form. No significant impact anticipated.
9VAC15-60-120		Internet accessible resources.	Updated information in this section. No significant impact anticipated.
9VAC15-60-130		Small solar energy projects less than or equal to five megawatts or less than or equal to 10 acres or meeting certain categorical criteria.	Amended for clarity. Revised language to clarify when an owner or operator of a small solar energy project is required to submit any notification or certification to the department and when an owner is not required to submit any notification or certification to the department. No significant impact anticipated.
9VAC15-60-130 A 1			Revised language to increase the maximum rated capacity where the applicant is not required to submit any notification or certification to the department from 500 KW to one MW. This was done at the request of the Department of Energy to align with nonresidential net metering requirements. No significant adverse impact anticipated.
9VAC15-60-130 A 3			New language clarifies that projects located on previously disturbed land cannot exceed 150 MW and clarifies that a brownfield project must go through the brownfields determination process. No significant adverse impact anticipated.
	9VAC15-60-140 A	Enforcement	Language moved from 9VAC15-60-100 C. Needed for compliance and enforcement. No significant impact anticipated.
	9VAC15-60-140 B	Permit termination	Recommendation by the Assistant Attorney General, adds new language that includes enforcement provisions and is consistent with language in the

			Energy Storage Regulation. No significant impact anticipated.
	9VAC15-60-9999	Documents Incorporated by Reference (DIBR)	Added new section to list documents incorporated by reference. No significant impacts anticipated.