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Fast-Track Regulation Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC15-60
VAC Chapter title(s)	Small Renewable Energy Projects (Solar) Permit by Rule
Action title	Amend the Small Renewable Energy Projects (Solar) Permit by Rule Regulation to correct errors in the definition of mitigation district.
Date this document prepared	May 14, 2026

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.

The intent of this fast-track regulatory action is to amend and update the Small Renewable Energy Projects (Solar) Permit by Rule (PBR) regulation (9VAC15-60) to correct inadvertent omissions to the definition of "mitigation district" in subsection 10 of the regulation and to update the names of planning district commissions to use legal names provided by the Virginia Department of Housing and Community Development (DHCD).

The Solar PBR regulation was amended June 18, 2025 in accordance with Chapter 688 of the 2022 Acts of Assembly, Regular Session, which required DEQ to consider significant adverse impacts to prime agricultural soils and forest lands and to develop mitigation measures to be taken by the applicant. DEQ added "mitigation district" to the definition section of the Solar PBR regulation to define areas where land

must be conserved, as conservation easements must encumber land in the same mitigation district where the project is to be constructed.

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.

DEQ (or Department): Department of Environmental Quality
 DHCD: Department of Housing and Community Development
 PBR: Permit by Rule
 VAC: Virginia Administrative Code

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”

On May 14, 2026, the Director authorized Department of Environmental Quality staff to:

1. Promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The Director’s authorization constituted the adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) DEQ does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

2. Set an effective date no earlier than 15 days after the close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) DEQ does not find it necessary to make any changes to the proposal.

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.”

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Chapter 688 of the 2022 Acts of Assembly required DEQ to consider significant adverse impacts to prime agricultural soils and forest lands and to develop mitigation measures to be taken by the applicant. The definition, “mitigation district” was added to the Solar PBR regulation to define areas where land must be conserved, as conservation easements must encumber land in the same mitigation district where the project is to be constructed. DEQ combined Virginia’s 21 planning district commissions (PDCs) into seven new mitigation districts.

After publication of the regulatory language in The Virginia Register of Regulations, DEQ discovered errors associated with the definition of “mitigation district” in the regulation. The Crater Planning District Commission was inadvertently omitted from the definition of mitigation district and the Commonwealth Regional District was inadvertently listed as part of the Richmond-Hampton Roads mitigation district and the Southside mitigation district. This amendment corrects the definition of mitigation district to list these two planning district commissions in their correct mitigation district. Updates have also been made to the names of planning district commissions to be consistent with the legal names provided by Virginia Department of Housing and Community Development (DHCD).

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 DEQ by correcting the definition of “mitigation district”.

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.

The proposed regulatory action is necessary to make corrections to the current regulations to improve clarity and avoid confusion concerning the definition of “mitigation district.” The Crater Planning District Commission was inadvertently omitted from the definition of mitigation district and the Commonwealth Regional District was inadvertently listed as part of the Richmond-Hampton Roads mitigation district and the Southside mitigation district. This amendment corrects the definition of mitigation district to list these

two planning district commissions in their correct mitigation district. Updates have also been made to the names of planning district commissions to be consistent with the legal names as provided by the Virginia Department of Housing and Community Development (DHCD). The regulatory action is essential to protect the health, safety, and welfare of citizens of the Commonwealth from potential impacts from the construction and operation of small renewable energy projects.

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 definition of “mitigation district” in 9VAC15-60-10 has been updated to correct the omission and errors identified by DEQ staff as well as to list the legal names of planning district commissions as provided by DHCD. The Crater Planning District Commission and the Commonwealth Regional District are now listed in their correct mitigation district.

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.

This rulemaking benefits the public, Commonwealth, and regulated community, by updating the regulation to improve clarity concerning the membership of mitigation districts. There are no disadvantages to the public or the Commonwealth.

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.

There are no applicable federal requirements.

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.

Other State Agencies Particularly Affected

There are no other state agencies particularly affected by this action.

Localities Particularly Affected

There are no localities particularly affected by this action.

Other Entities Particularly Affected

There are no other entities particularly affected by this action.

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 regulatory change will not result in any cost to DEQ.</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>The regulatory change will not result in any cost to any state agency.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The direct benefit to state agencies of updating the mitigation district is to improve clarity of requirements and ensure that the applicant provides mitigation by obtaining a conservation easement within the correct mitigation district where the project is to be constructed.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	No impacts to any locality are anticipated.
Benefits the regulatory change is designed to produce.	ORM Economic Impact form, Table 2

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

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.	ORM Economic Impact form, Tables 1a, 3 and 4
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: 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.	ORM Economic Impact form, Tables 1a, 3 and 4
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.	ORM Economic Impact form, Tables 1a, 3 and 4
Benefits the regulatory change is designed to produce.	Updating regulations will allow applicants to accurately identify mitigation districts and obtain conservation easements in the same mitigation district where the project is to be constructed.

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.

There are no practical alternatives. Leaving technical errors in the Solar PBR regulation will likely cause misunderstanding, confusion, and inconsistent application of regulatory requirements for DEQ and the owners of solar facilities.

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.

There are no alternatives to this regulatory action other than continuing to operate with the existing language with no updates.

This regulatory change is very limited in scope to include technical changes for consistency with DHCD planning district names and provide clarity and certainty concerning the membership of mitigation districts. This action does not change the substantive requirements for applicants to obtain permit coverage and maintain compliance with requirements in the Solar PBR regulation.

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.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

DEQ is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in 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, or email to Amber Foster, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218; Telephone: (804)-774-8474; Email Address: amber.foster@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.

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 existing VAC Chapter(s) and the proposed regulation. If 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		<p>“Mitigation district” means the following groups of planning districts as defined in § 15.2-4202 of the Code of Virginia: Chesapeake, including the George Washington, Middle Peninsula, and Northern Neck districts; Eastern Shore, including the Accomack-Northampton district; Northern Piedmont, including the Northern Virginia, Rappahannock-Rapidan, and Thomas Jefferson districts; Richmond-Hampton Roads, including the Commonwealth Regional, Hampton Roads, and Plan RVA districts; Shenandoah Valley, including Central Shenandoah and Northern Shenandoah Valley districts; Southside, including the Commonwealth, Central Virginia, Southside, and West Piedmont districts; and Southwest, including the Cumberland Plateau, LENOWISCO, Mount Rogers, New River Valley, and Roanoke Valley-Alleghany districts.</p>	<p>The definition of “mitigation district” has been updated to make the following corrections: added the “Crater Planning District Commission” to the Richmond-Hampton Roads mitigation district as it was previously omitted; removed the “Commonwealth District” from the Richmond-Hampton Roads mitigation district as it was added in error. In addition, all planning district commission names were updated to list the legal names as provided by DHCD.</p> <p>Correcting the mitigation district definition will ensure that conservation easements will encumber land in the same mitigation district where the solar project is to be constructed.</p>

