DEQ’s Wind Energy Permit by Rule: Approach to HISTORIC RESOURCES

Carol C. Wampler
Virginia Department of Environmental Quality

For
JMU Wind Symposium
June 16, 2010
Virginia General Assembly
“Small Renewable Energy Projects” Legislation
HB 2175 & SB 1347
Approved: April 8, 2009
Directs DEQ to develop by regulations “permits by rule . . . for the construction and operation of small renewable energy projects, including such conditions and standards necessary to protect the Commonwealth’s natural resources”
Statutory Goals:

- **Promote renewable energy** – provide certainty, timeliness, reasonable regulatory requirements

- **Protect natural resources** – provide enforceable standards that are protective of wildlife & historic resources at/near project site
What is a “small renewable energy project”?
An electrical generation facility producing electricity from:
- sunlight
- wind
- falling water
- motion
- tides
- geothermal power

< 100 MW
An electrical generation facility producing electricity from ...

- biomass
- energy from waste < 20 MW
- municipal solid waste
Proposed Wind PBR:

9 VAC 15-40

Proposed Text

http://www.townhall.virginia.gov/L/ViewXML.cfm?textid=4259

Agency Statement - Town Hall Document (TH-02)

http://www.townhall.virginia.gov/L/viewstage.cfm?stageid=5451&display=documents
New System:

- Developer applies to DEQ for permit by rule (PBR)
- Environmental requirements are set forth “up front” in regulation for all sites
- If applicant meets requirements and submits required certifications, then DEQ notifies applicant that project is authorized under PBR.
A Permit by Rule (PBR) is . . .

- Expedited permitting process used by DEQ for certain solid waste facilities
- Regulation stating “up front” the criteria that applicant must meet
- Requirement that applicant submit docs/certification that has met requirements
- Requirement that DEQ review submission, in consultation with sister agencies, for completeness & adherence to reg
- If complete, then DEQ notifies that project is authorized under the PBR
DEQ’s Operative Provisions 10-1:1197.6.B.7:

Applicant shall provide

“an ANALYSIS of the beneficial and adverse impacts of the proposed project on NATURAL RESOURCES”
Operative provisions (continued)
10.1-1197.6.B.8:

(1) **Department determines** if foregoing analysis “indicates that **significant adverse impacts to wildlife** or **historic resources** are **likely**”
If so, then . . .

(2)

MITIGATION PLAN

MEASURE EFFICACY
(post-construction monitoring)
What do provisions mean regarding historic resources?
Analysis
of Historic Resources

Pre-Construction Analysis by Professional Qualified per DOI

- Desktop compilation of known resources
- Architectural field survey
- Archaeological field survey
- Report
Determination of Significant Adverse Impact

DEQ shall find such when prescribed analyses indicate . . .

“proposed project is likely to diminish significantly any aspect of a historic resource’s integrity.”

(See definitions of aspects of integrity at 17VAC5-30-50.)
Mitigation for VLR-Eligible or VLR-Listed

**Architectural**
- Avoid or minimize via design or via vegetative or other screening
- If still significant impact, then offset

**Archaeological**
- If cannot avoid or minimize, then data recovery
For further information . . .

Carol C. Wampler, DEQ
carol.wampler@deq.virginia.gov
carol.wampler.renewable.energy@gmail.com

Roger Kirchen, DHR
roger.kirchen@dhr.virginia.gov