

## Overview

### **Virginia Department of Environmental Quality Draft Regulation for Constructing and Operating Small Wind Projects 9VAC 15040-10**

## **Background**

Virginia is taking the lead nationally in developing a regulatory framework for developing small wind projects that is protective of natural, cultural and historic resources. Upon final approval of this framework, considerations related to wildlife and other natural, historic and cultural resources from proposed wind energy projects will come under the purview and expertise of the Virginia Department of Environmental Quality (DEQ) and its related agencies.

With leadership from the Virginia DEQ, this draft regulation is the result of an unprecedented collaborative effort between environmental organizations, state agencies, wind developers, academia, and electric utilities.

The purpose of the DEQ small wind power regulation is to provide a responsible and thoughtful framework to analyze the potential benefits and adverse impacts of a proposed wind energy project on Virginia's natural, cultural and historic resources and provide binding regulations on how these projects will be constructed and operated. Potential adverse impacts will be mitigated in a manner that is protective of the natural environment.



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## Highlights of the Regulation

Following are some of the proposed key requirements that must be addressed by any applicant pursuing a permit by rule for a small wind energy project. To review the complete draft regulation and its requirements, visit [townhall.virginia.gov](http://townhall.virginia.gov).

## Wildlife

### Step 1—Pre-Construction Studies.

The applicant will be required to conduct an overview analysis of wildlife species and habitats known to occur on the proposed site or within two (2) miles of the site boundary.

For bats, the analysis extends to bat hibernacula known to occur within five (5) miles of the site. Furthermore, the analysis will extend to maternity and bachelor bat colonies known to occur either on the site or within twelve (12) miles of the site boundary.

If overview analyses indicate the presence of Species of Greatest Conservation Need (SGCN), Threatened or Endangered species (T&E), or habitat for SGCN or T&E species, then field studies are conducted.

Depending on the results of the overview analyses, field studies can include:

Breeding Bird Surveys

Non-Avian Surveys

Raptor Migration Surveys

Bat Acoustic Surveys

Mist-netting or harp-trapping surveys for bats

### Step 2—If necessary, develop a mitigation plan.

In consultation with the Virginia Department of Game and Inland Fisheries (DGIF) and other agencies, if DEQ determines that significant impacts to wildlife are likely, then the applicant must prepare a mitigation plan demonstrating what significant adverse impacts cannot practicably be avoided and why additional proposed actions are reasonable. The additional proposed actions may include best practices to avoid, minimize, or offset adverse impacts to resources.

If the proposed project is determined to have an adverse impact on bats, the mitigation plan will include curtailment of the operation of wind turbines at low wind speed on nights when bats are likely to be active within the disturbance zone. Monitoring of the effectiveness of these measures is also required. The mitigation plan must include post construction monitoring and post construction mitigation, if needed. Curtailment may be required over the life of the project.

## Historic Resources

### Step 1—Pre-Construction Studies.

A third party consultant will conduct pre-construction historic resources analysis and provide a compilation of known historic resources within the disturbance zone and within five (5) miles of the disturbance zone boundary and map this information.

A third party consultant will conduct surveys of architectural resources, including cultural landscapes 50 years or older within the disturbance zone boundary and within 1.5 miles of the disturbance zone boundary and evaluate eligibility of any identified resource for listing in the Virginia Land Record (VLR).

A third party consultant will conduct archeological field survey of the disturbance zone and evaluate the eligibility of any identified archaeological site for listing in the Virginia Land Record (VLR).

### Step 2—If necessary, develop a mitigation plan.

In consultation with the Virginia Department of Historic Resources, if DEQ determines that significant impacts to historic resources are likely, then the applicant must prepare a mitigation plan demonstrating what significant adverse impacts cannot practicably be avoided and why additional proposed actions are reasonable. The additional proposed actions may include best practices to avoid, minimize, or offset adverse impacts to resources.

## Other Natural Resources

### Step 1—Pre-Construction Studies.

In consultation with the Virginia Department of Conservation and Recreation and DEQ, the applicant will conduct pre-construction analyses of the impact of the proposed project on other natural resources defined as:

**Natural Heritage Resources** (within the site and within two miles of the site boundary)- The applicant will conduct an evaluation to determine the presence of ecological community groups, caves, mines, rock outcrops, cliffs, wetlands, and invasive plant species.

**Scenic Resources** (within five miles of the site boundary) The applicant will conduct a viewshed analysis for impact on existing federally-designated or state-designated scenic resources and those resources identified as potential candidates for such designation in DCR's Virginia Outdoors Plan.

### Step 2—If necessary, develop a mitigation plan.

Significant adverse impacts to historic resources are mitigated through project design or installation of vegetative or other screening. If not possible, adverse impacts can be offset with a solution that has a demonstrable public benefit and benefit for the affected or similar resource.