

DEQ Wind Energy Regulatory Advisory Panel (Wind RAP)

Living Resources Subcommittee

October 20, 2009 Meeting

Draft Meeting Notes

Location: DEQ Central Office, 2nd Floor Conference Room B
629 E. Main Street, Richmond, VA 23219

Start: 09:55 a.m.

End: 03:05 p.m.

Subcommittee Chair: Judy Dunscomb, TNC

Recorder: Debra A. Miller, DEQ

Subcommittee Members Present:

Bob Bisha, Dominion

Tom Smith, DCR

Ray Fernald, DGIF

Subcommittee Members Absent: none

Public Attendees:

James Golden, DEQ (RAP Member)

Rick Thomas, Timmons Group

Rick Reynolds, DGIF (Alternate)

Jim Madden, BP Wind

Bill Bolvin, Dominion

Emil Avram, Dominion (Alternate)

Chad Smith, PBS&J

Larry Nichols, VDACS (Alternate)

Chris Ludwig, DCR/DNH

Hank Seltzer, BP Wind

Don Giecek, Invenergy (Alternate)

Robert Hare, Dominion

David Young (by telecom)

Agenda Item: Welcome and introductions

Discussion Leader: Judy Dunscomb

Discussion: All in attendance introduced themselves. Two handouts were provided:

- ✓ Revised draft criteria for pre- and post-construction monitoring (Rev. 10/19/2009)
- ✓ Draft table of regulatory components and recommendations

These documents will be reviewed during the meeting.

Agenda Item: Review of Draft Criteria for Pre-Construction Analysis

Discussion Leader: Judy Dunscomb

Discussion: The subcommittee reviewed the revised draft language provided regarding the requirements for pre-construction monitoring. These revisions were based on the meeting of October 13th. The draft language for objectives, studies, and methodology was reviewed and discussed.

Preconstruction Studies

The group reviewed this section for large issue to be flagged for further discussion. The language for fixed bird point survey was again reviewed. DGIF may have additional information and will also be revising the raptor survey language. For Habitat Mapping, it was noted that the language can refer to "control of" invasive plant species; it does not have to require removal and disposal. For bat surveys, the timeframe for performing these monitoring surveys was discussed in detail. The recommendation for section b. was to use April 1 through October 31. However, further definition of the seasons will be revised for the next meeting. DGIF will refine the seasons. The issue of mist netting was discussed and it was noted that the season is different. That will be reviewed and further clarified.

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Agenda Item: Regulatory components and recommendations

Discussion Leader: Judy Dunscomb

Discussion: The group started its discussion of the regulatory components and recommendations hand-out. This document summarizes the recommendations of the living resources subcommittee to date. It provides the regulatory component and justification and also, outstanding issues. The triggers for mitigation were reviewed and how to define these triggers was discussed. What would be the trigger to require DEQ to seek mitigation for the various issues regarding wildlife? The other recommendations were reviewed. The definitions will need to include invasive species. For large sites, what will be the ecological core? The draft criteria document will be revised with triggers of potential significant adverse impact (bird/bat presence?). What shall the applicant consider? The group then reviewed the options for mitigation. It was noted that language considering avoidance and minimization needs to be added to the options for mitigation. For some plant/animal species, avoidance and minimization are necessary steps. Language such as "applicant will propose mitigation plan to avoid and minimize likely adverse impacts...". There needs to be clarity in the requirements for avoidance and minimization. By statute, this is the hierarchy – avoid, minimize, and mitigate. For most all other concerns, except birds and bats, avoidance and minimization will be the key component of the mitigation plan. There will need to be language that includes standards that are reasonable to achieve. Other mitigation options, such as acoustical deterrents, are still an option but may not be reasonable for larger projects. It was noted that if a "new" technology does arrive on the scene, then the regulation may be amended as necessary to include those options or language to allow for "other as approved" can be added. The issue of consultation was discussed, it was noted that for a PBR process this consultation is for unusual circumstances, the criteria should be outlined all ready.

Agenda Item: Post-Construction Monitoring and Mitigation

Discussion Leader: Judy Dunscomb

Discussion: The group then discussed the language provided for post-construction monitoring and mitigation. The issue of the \$X per turbine cap and funding for post-construction monitoring and mitigation was carefully discussed as there are many considerations. This concept will require basis and justification will need further review and work. During the first year or two, this may not be adequate. Additionally, what about the issue of a take goal per turbine? If you are not meeting this but you are spending at your cap, there are other repercussions that need to be discussed and considered. Additionally, the need to begin curtailment studies in year 1 was discussed. This will add to the number of turbines monitored and the cost. It was considered to not have a cap on year 1 so that these wide ranging studies can be performed and just set objectives more prescriptively for this year. Then other years can be 'refinements'. There are many issues to consider such as, lack of correspondence between pre and post construction monitoring, variations of takes per turbine, financing, sensitivity, etc. This will require more consideration to determine how to best consider a balanced approach that will develop mitigation, determine efficacy of the mitigation and be protective and cost-effective. Turbine sampling post-construction monitoring was discussed. This will be difficult with smaller projects and may require a larger percentage, if not all, turbines to be involved with monitoring. This will require more refinement to answer some issues brought up, how many is enough, can curtailment study non-curtailed turbines also be baseline, etc. The group will resume with post-construction discussions at the next meeting.

The next meeting is scheduled for October 28, 2009, at Dominion offices.

The meeting was adjourned at 3:05pm.