



SENATE BILL 377: Military Base Protection Act.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 26, 2019
Introduced by:	Sens. Brown, Newton, Sanderson	Prepared by:	Jennifer McGinnis
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *Senate Bill 377 would –*

- *Add a definition for the term "commanding military officer's designee" in the wind permitting statutes.*
- *Require the Department of Environmental Quality (DEQ) to request any maps or narrative information related to any adverse impact on a installation's operations, training, or mission from the commanding military officers of all major military installations located within the State (in addition to "technical information" on such impacts that DEQ must already request under existing law).*

CURRENT LAW: Article 21C of Chapter 143 the General Statutes requires all wind energy facilities that have a rated capacity of one megawatt or more to obtain a permit from DEQ for construction and operation of the facility.

A permit application for a proposed wind energy facility must include:

- A narrative description of the proposed facility and map showing the location of each turbine.
- A description of civil air navigation or military activities that may be affected by the construction or operation of the proposed facility.
- Documentation addressing any potential adverse impacts on military activities as identified by the Department of Defense (DOD) Clearinghouse and any mitigation actions agreed to by the applicant.
- A study of the noise and shadow flicker impacts of the turbines associated with the proposed facility.
- A study of the effects of the proposed facility on natural resources.
- The permit application fee of \$3,500.
- A plan for decommissioning and removal of the facility.

DEQ must approve an application for a proposed wind energy facility unless DEQ finds that construction or operation of the facility would:

- Be inconsistent with or violate applicable rules under the Administrative Code, or any other provision of law.
- Encroach upon or otherwise have a significant adverse impact on military operations.

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- Result in significant adverse impacts to natural resources, fish, wildlife, or views from State or national parks and other areas with high recreational values.
- Obstruct major navigation channels.
- Be denied based on criteria under the Coastal Area Management Act or prohibited under the Mountain Ridge Protection Act.
- Not comply with all applicable federal, State, or local permitting requirements, licenses, or approvals, including local zoning requirements.

Article 21C otherwise requires permit holders to:

- Establish financial assurance that will ensure sufficient funds are available for decommissioning of the facility and reclamation of the property to its condition prior to commencement of activities on the site even if the applicant or permit holder becomes insolvent or ceases to reside in, be incorporated, do business, or maintain assets in the State.
- Submit copies of any required post-construction monitoring annually to the DEQ.

The Secretary of Environmental Quality is authorized to impose an administrative penalty in an amount not to exceed ten thousand dollars (\$10,000) per day, or institute an action for injunctive relief, in response to construction or operation of a facility in violation of the permitting requirements.

BILL ANALYSIS: The bill would –

- Add a definition for the term "commanding military officer's designee, to mean "an individual appointed by a commanding military officer, who may represent the interests of the military installation of the commanding military officer they represent. The designee shall provide information from the major military installation or the commanding military officer they represent to the Department. The interests the designee represents may include the ongoing training and mission currently being conducted at the major military installation they represent."
- Require DEQ to request any maps or narrative information related to any adverse impact on the installation's operations, training, or mission (in addition to "technical information" on such impacts that DEQ must already request under existing law).

EFFECTIVE DATE: This bill would be effective when it becomes law and would apply to applications for permits for a proposed wind energy facility or a proposed wind energy facility expansion pending or submitted on or after that date.