

DEQ's Renewable Energy Permit by Rule: Background of Proposed Wind Regulation

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For
Public Meeting – Wind Permit by Rule
October 18, 2010
DEQ Central Office, Downtown Richmond





VIRGINIA ACTS OF
ASSEMBLY -- 2009
RECONVENED SESSION
CHAPTER 808 & 854

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”?**



100 MW



An electrical generation facility producing electricity from . . .

☸ biomass

☸ energy from waste < 20 MW

☸ municipal solid waste





An electrical generation facility
producing electricity from ...

***** WIND *****

sunlight

falling water

wave motion

tides

geothermal power

biomass

energy from waste

municipal solid waste

Statutory Deadlines for Permits by Rule:

January 1, 2011, for WIND

July 1, 2012, for all others



Timeline

WIND:

- May '09: RAP Leader hired
- June '09: Regulatory Advisory Panel (RAP) established
- July '09 to January '10: 15 RAP meetings and 11 inter-agency meetings convened
- January '10: DEQ Director approved draft reg
- February 18 – June 1: Executive Review
- June 21 – Aug 20: Public Comment Period
- August 3: Public Hearing



Timeline (continued)

- ⌘ May '10: Offshore/Coastal Wind RAP established
- ⌘ June – Sept '10: 7 RAP meetings
- ⌘ Sept 4 – Oct 5: second public comment period
- ⌘ October 18: public meeting



Wind PBR: Next Steps

- ⌘ DEQ Director's Decision
- ⌘ Executive Review
- ⌘ Final Regulation



Final Wind PBR:

Documents will be available
on **Regulatory Town Hall** at

[http://www.townhall.virginia.gov/L/
viewchapter.cfm?chapterid=2722](http://www.townhall.virginia.gov/L/viewchapter.cfm?chapterid=2722)

&

on **DEQ's Website** (*Renewable Energy*)

9VAC 15-40

Agency Statement - Town Hall Document (TH03)





Current Practice:

- ⌘ Developer applies to SCC for individual permit
- ⌘ Environmental agencies submit recommendations to SCC re proposed site
- ⌘ SCC decides what environmental requirements to include in order



New System:

- ⌘ Developer applies to DEQ for permit by rule (PBR)
- ⌘ Environmental requirements are set forth “up front” in regulation for all sites
- ⌘ DEQ, in consultation with other agencies, reviews application
- ⌘ If applicant meets requirements and submits required certifications, then DEQ notifies applicant that project is authorized under PBR



Note . . .

Neither current practice nor DEQ's new PBR approach abrogates applicant's need to obtain regulatory environmental permits.



WHAT IS THIS “PERMIT BY RULE”?





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 for completeness & adherence to reg
- ❖ If complete, then DEQ notifies that project is authorized under the PBR



A Permit by Rule is **not** . . .

- ✿ An individual permit
- ✿ Site-specific
- ✿ Based on a case-by-case technical analysis



***Statutory
Permit by Rule
Requirements***



PBR Criteria

10.1-1197.6.B

- ⌘ Notice of intent
- ⌘ Local-government certification
- ⌘ Interconnection studies
- ⌘ Final interconnection agreement
- ⌘ PE certification of generation capacity
- ⌘ Analysis of impacts on NAAQS



PBR Criteria (continued)

- ✚ **Analysis of impact on natural resources**
- ✚ **Determination of likely significant adverse impacts; mitigation plan & monitoring**
- ✚ PE certification of design
- ✚ Operating plan
- ✚ Site plan
- ✚ Certification re environmental permits
- ✚ Public meeting
- ✚ Public comment period



*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)



Operative Statutory Provisions:

10.1-1197.6.A DEQ authority over

CONSTRUCTION

and

OPERATION

of

small renewable energy projects



But note – Phases of a Project:

☸ *Siting (land use requirements)*

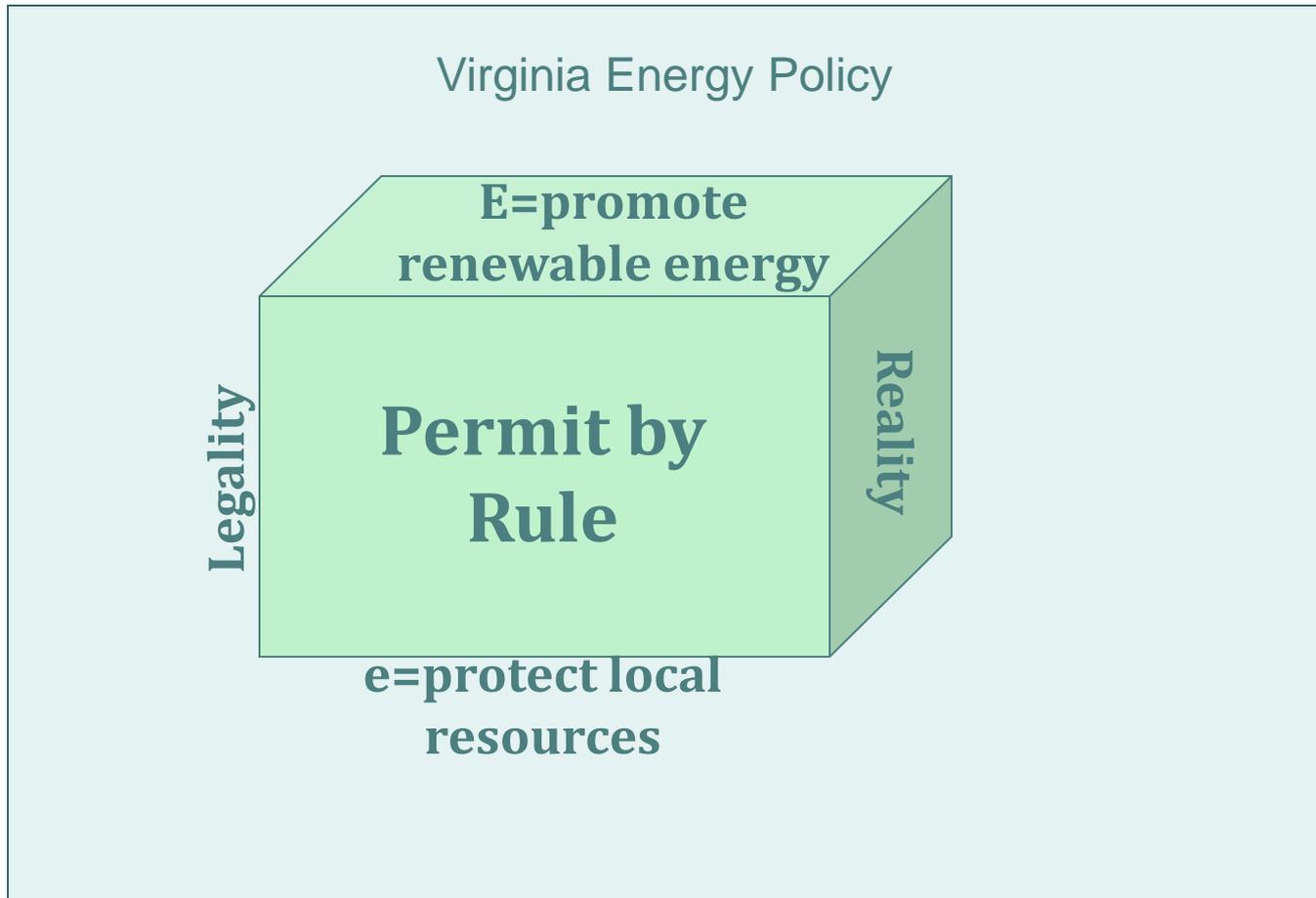
☸ **CONSTRUCTION**

☸ **OPERATION**

☸ *Decommissioning*



“Small Renewable Energy Project” PBR





Original Wind Regulatory Advisory Panel (RAP)

State Government Representatives

- DCR
- DGIF
- DHR
- VMRC
- DEQ
- DMME
- DOF
- VDACS
- Deputy Secretary of Natural Resources



Original Wind Regulatory Advisory Panel (RAP)

Industry

- Independent Wind Developers – 2
- Utility Wind Developers – 2

Environmental Organizations – 4

Academia – 1

Local Government – 1



Offshore/Coastal Wind RAP

Same groups as original Wind RAP

plus

VIMS

Center for Conservation Biology

U. S. Navy

Additional Local Govt Rep

Legal/Engineering Consultants



*Thank you
for your interest
and participation*



Contact information . . .

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