



DEQ

Renewable Energy

Permit by Rule (PBR)

Mary E. Major

Office of Air Permit Programs

What Exactly is a PBR?

- Permit by Rule or Regulation means that a project or activity is deemed to have a permit if it meets the requirements of the regulation
- Not a conditional use permit
- The Application is the Permit

Acts of the Assembly

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CHAPTER 808

An Act to amend and reenact §§ 56-46.1 and 56-580 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 11.1 of Title 10.1 an article numbered 5, consisting of sections numbered 10.1-1197.5 through 10.1-1197.11, relating to permits for certain renewable energy projects; penalty.

[H 2175]

Approved April 8, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-46.1 and 56-580 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11.1 of Title 10.1 an article numbered 5, consisting of sections numbered 10.1-1197.5 through 10.1-1197.11, as follows:

Article 5.

Small Renewable Energy Projects.

§ 10.1-1197.5. Definitions.

As used in this article, "small renewable energy project" means (i) an electrical generation facility with a rated capacity not exceeding 100 megawatts that generates electricity only from sunlight, wind, falling water, wave motion, tides, or geothermal power, or (ii) an electrical generation facility with a rated capacity not exceeding 20 megawatts that generates electricity only from biomass, energy from waste, or municipal solid waste.

§ 10.1-1197.6. Permit by rule for small renewable energy projects.

A. Notwithstanding the provisions of § 10.1-1186.2:1, the Department shall develop, by regulations to be effective as soon as practicable, but not later than July 1, 2012, a permit by rule or permits by rule if it is determined by the Department that one or more such permits by rule are necessary for the construction and operation of small renewable energy projects, including such conditions and standards necessary to protect the Commonwealth's natural resources. If the Department determines that more than a single permit by rule is necessary, the Department initially shall develop the permit by rule for wind energy, which shall be effective as soon as practicable, but not later than January 1, 2011. Subsequent permits by rule regulations shall be effective as soon as practicable.

B. The conditions for issuance of the permit by rule for small renewable energy projects shall include:

1. A notice of intent provided by the applicant, to be published in the Virginia Register, that a person intends to submit the necessary documentation for a permit by rule for a small renewable energy project;

2. A certification by the governing body of the locality or localities wherein the small renewable energy project will be located that the

Solar PBR Components

- Notice of Intent
- Local government Certification
- Interconnection Studies
- Interconnection Agreement
- Certification project doesn't exceed 150MW
- Analysis of NAAQS
- Analysis on impacts to natural resources/DGIF, DCR,DHR
 - Likely significant adverse impacts
 - Mitigation plan required

Solar PBR Components (Cont.)

- Coastal Avian Protection Zone Review
- Operating Plan
- Site Plan and Context Map
- Certification that project has applied for or received *all necessary environmental permits*
- Certification of either Utility or non-utility
- 30-day Public comment/with public meeting
- Appropriate permit fee

PBR Regulation 9VAC15-60

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Chapter 60. Small Renewable Energy Projects (Solar) Permit by Rule

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- [Section 10](#) Definitions
- [Section 20](#) Authority and applicability
- [Section 30](#) Application for permit by rule for solar energy projects with rated capacity greater than five megawatts and disturbance zone greater than 10 acres
- [Section 40](#) Analysis of the beneficial and adverse impacts on natural resources
- [Section 50](#) Determination of likely significant adverse impacts
- [Section 60](#) Mitigation plan
- [Section 70](#) Site plan and context map requirements
- [Section 80](#) Small solar energy project design standards
- [Section 90](#) Public participation
- [Section 100](#) Change of ownership, project modifications, termination
- [Section 110](#) Fees for projects subject to Part II of this chapter
- [Section 120](#) Internet accessible resources
- [Section 130](#) Small solar energy projects less than or equal to five megawatts or less than or equal to 10 acres or meeting certain categorical criteria
- [Section 140](#) Enforcement

Website addresses provided in the Virginia Administrative Code to documents incorporated by reference are for the reader's convenience only, may not necessarily be active or current, and should not be relied upon. To ensure the information incorporated by reference is accurate, the reader is encouraged to use the source document described in the regulation.

As a service to the public, the Virginia Administrative Code is provided online by the Virginia General Assembly. We are unable to answer legal questions or respond to requests for legal advice, including application of law to specific fact. To understand and protect your legal rights, you should consult an attorney.

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Town Hall Meetings - VA Healthcare-VISN 4

<https://www.visn4.va.gov/VISN4/town-hall-meetings.asp> ▼

Veteran Town Hall meetings will be held quarterly at every VA medical center throughout VISN 4.

Secretary Wilkie to host online community town hall January 17 ...

<https://www.blogs.va.gov/.../va-secretary-robert-wilkie-host-live-community-town-hal...> ▼

Jan 10, 2019 - VA Secretary Wilkie to speak on state of VA and his priorities. ... The online town hall will broadcast live on January 17, 1:00 p.m. to 3:00 p.m. ...


Town of South Hill, Virginia - Town Council

<https://www.southhillva.org> › [Residents & Businesses](#) › [Government](#)

South Hill is governed by an eight member Town Council headed by a Mayor. South Hill Town Council Town Council Members, left to right: W.M. "Mike" Moody, ...

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A source of information about proposed changes to Virginia's regulations, including a meetings calendar and board minutes. This site also facilitates public participation through online comment forums and an email notification service.

Public comment forums

30 open comment forums, 6 of which have some comments, 16 opened in the last week

Recent Activity

- 4 regulatory changes published in the most recent *Virginia Register* (4/1/2019)
- 12 regulatory changes scheduled to be published in the *Virginia Register*
- 3 board meetings scheduled for today
- 51 Regulatory changes became effective in the last 90 days
- 13 regulatory stages approved by the Governor in the last 90 days
- 68 Periodic Reviews of Regulations in Progress

Email notification service

[Register as a public user](#) - Receive emails when regulatory actions or meetings are posted for the agencies, boards, or regulations you select!

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[Town Hall User Manual](#) [Links to other sites](#) [User Comment Policy](#)

Regulatory Reduction Pilot Program

- Chapter 444 of the 2018 Acts of Assembly
- Chapter 445 of the 2018 Acts of Assembly
- Guide to using the baseline regulatory catalogs
- DCJS Baseline Regulatory Catalog
- DPOR Baseline Regulatory Catalog

Guidance Document Legislation Implementation

- Chapter 820 of the 2018 Acts of Assembly

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Board Board of Accountancy

Chapter	Action / Stage Information
Board of Accountancy Regulations [18 VAC 5 - 22]	Action: Amend Regulations Following Periodic Review Stage: NOIRA - Register Date: 1/21/19

Board Department for Aging and Rehabilitative Services

Chapter	Action / Stage Information
Grants to Area Agencies on Aging [22 VAC 30 - 60]	Action: Amending regulations to incorporate federal changes and name changes Stage: Final - Register Date: 4/1/19
Adult Protective Services [22 VAC 30 - 100]	Action: Revise Adult Protective Services Regulations Stage: NOIRA - Register Date: 10/2/17
Assessment in Assisted Living Facilities [22 VAC 30 - 110]	Action: Amend Assessment in Assisted Living Facilities Stage: Proposed - At Secretary's Office
Adult Services Approved Providers [22 VAC 30 - 120]	Action: Revisions to Adult Services Approved Providers Stage: NOIRA - Register Date: 10/30/17
Adult Services Standards [under development] [22 VAC 30 - 130]	Action: Establish Adult Services Standards Stage: NOIRA - Register Date: 9/4/17
State Long-Term Care Ombudsman Program [under development] [22 VAC 30 - 140]	Action: Reorganization and Revisions to the State Long-Term Care Ombudsman Program Regulations Stage: NOIRA - Register Date: 2/4/19

Board Department of Agriculture and Consumer Services

Chapter	Action / Stage Information
Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use Under the Virginia Land Use Assessment Law [2 VAC 5 - 20]	Action: Amendments to reflect regulatory changes required pursuant to Chapter 504 of the 2018 Acts of Assembly; general review of this regulation Stage: NOIRA - Register Date: 9/17/18
Regulations for Determining Whether a Facility Meets the Purpose of Finding Permanent Adoptive Homes for Animals [Under Development] [2 VAC 5 - 115]	Action: Promulgate regulation required by Chapter 319 of the 2016 Acts of Assembly Stage: Proposed - Register Date: 10/15/16

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Board/DEQ

Board Department of Environmental Quality	
Chapter	Action / Stage Information
Small Renewable Offshore Wind Energy Projects Permit Regulation (Requirements Incorporated into 9VAC15-40) [9 VAC 15 - 50]	<u>Action:</u> Small Offshore Wind Renewable Energy Projects Permit Regulation <u>Stage:</u> NOIRA - Register Date: 8/2/10
Small Solar Renewable Energy Projects Permit Regulation [9 VAC 15 - 60]	<u>Action:</u> 2019 Amendments Solar PBR <u>Stage:</u> NOIRA - At Governor's Office

Board Forensic Science Board	
Chapter	Action / Stage Information
Regulations for the Approval of Field Tests for Detection of Drugs [6 VAC 40 - 30]	<u>Action:</u> Amendments to Permit Consideration and Approval of Presumptive Mobile Instruments <u>Stage:</u> Proposed - At DPB

Board Department of Forestry	
Chapter	Action / Stage Information
Virginia State Forest Regulations [4 VAC 10 - 30]	<u>Action:</u> State Forest Regulations Comprehensive Review and Amendment <u>Stage:</u> NOIRA - Register Date: 7/15/13

Board Board of Funeral Directors and Embalmers	
Chapter	Action / Stage Information
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u> Results of periodic review <u>Stage:</u> NOIRA - At Secretary's Office
Regulations for Preneed Funeral Planning [18 VAC 65 - 30]	<u>Action:</u> Periodic review 2018 <u>Stage:</u> NOIRA - At Secretary's Office
Regulations for the Funeral Service Intern Program [18 VAC 65 - 40]	<u>Action:</u> Periodic review 2019 <u>Stage:</u> NOIRA - At Secretary's Office

Board Department of General Services	
Chapter	Action / Stage Information

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Agency Department of Environmental Quality

Board Department of Environmental Quality

Chapter Small Solar Renewable Energy Projects Permit Regulation [9 VAC 15 - 60]

[Action](#): 2019 Amendments Solar PBR

Notice of Intended Regulatory Action (NOIRA)  Action 5216 / Stage 8519

Documents		
Preliminary Draft Text	None submitted	
 Agency Statement	1/30/2019 (modified 1/31/2019)	
 Governor's Review Memo	4/22/2019	

Status	
Exempt from APA	No, this stage/action is subject to article 2 of the <i>Administrative Process Act</i> and the standard executive branch review process.
DPB Review	Submitted on 1/31/2019 Review Completed: 2/13/2019 <i>DPB's policy memo is "Governor's Confidential Working Papers"</i>
Secretary Review	Secretary of Natural Resources Review Completed: 3/19/2019
Governor's Review	Review Completed: 4/22/2019 Result: Approved
Virginia Registrar	Submitted on 5/6/2019 The Virginia Register of Regulations Publication Date: 5/27/2019  Volume: 35 Issue: 20
Comment Period	 In Progress! Ends 6/26/2019 Currently 0 comments

Contact Information	
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This person is the primary contact for this chapter.

Click “Agency Statement”

Form: TH-01
October 2018



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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation(s)	9VAC15-60
Regulation title(s)	Small Renewable Energy Projects (Solar) Permit by Rule
Action title	2019 Amendments Solar PBR
Date this document prepared	January 14, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Small Renewable Energy Projects (Solar) Permit by Rule, 9VAC15-60, establishes criteria, procedures and permit requirements as required under the Code of Virginia (§10.1-1197.5 et seq.) which requires the Department of Environmental Quality (DEQ) to create a permits-by-rule (PBR) for solar energy projects 150 megawatts or less. The PBR requirements for a complete application to construct and operate are explicitly identified under the regulation rather than being developed on a case-by-case basis. Key application criteria include the following: public notice and comment period, local government approval, interconnection requirements, natural and cultural resource assessments, and a fee structure that should be sufficient to support the entire program including compliance and enforcement efforts.

The purpose of this amendment is to clarify specific definitions, establish clear timeframes for data submittals and recordkeeping activities, provide clarity for natural and cultural resource studies, clarify the public participation procedures and address the fee structure to adequately fund the program. The goals of this amendment are to clarify the requirements for applicants, operators and permitted facilities,

Public Participation

Please indicate whether the agency is seeking comments on this regulation, including ideas to assist the agency in the development of the regulation and the costs and benefits of the alternatives stated in this

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Town Hall Agency Background Document

Form: TH-01

notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you are interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulation.

The agency is seeking comments on this regulation, including but not limited to: ideas to be considered in the development of this regulation, the costs and benefits of the alternatives stated in this background document or other alternatives, the potential impacts of the regulation, and periodic review and small business impact issues (see above section for more information).

A regulatory advisory panel will be appointed.

Please refer to the Regulatory Advisory Panel section for further information.

Anyone wishing to submit written comments may do so by mail, email or fax to Mary E. Major, P.O. Box 1105, Richmond, VA 23218; Telephone: (804) 698-4423; Fax: (804) 698-4319; Email Address: mary.major@deq.virginia.gov. Comments may also be submitted through the Public Forum feature of the [Virginia Regulatory Town Hall website](http://www.townhall.virginia.gov) (<http://www.townhall.virginia.gov>). Written comments must include the name and address of the commenter. In order to be considered, comments must be received before midnight on the last day of the public comment period.

Regulatory Advisory Panel

Please indicate, to the extent known, if advisers (e.g., regulatory advisory panel or negotiated rulemaking panel) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using a panel in the development of the proposal; 2) the agency is using a panel in the development of the proposal; or 3) the agency is inviting comment on whether to use a panel to assist the agency in the development of a proposal.

The Agency is using a panel to develop a proposal. Persons interested in assisting in the development of a proposal should notify the department contact person by the end of the comment period and provide their name, address, phone number, email address and the organization you represent (if any). The primary function of the panel is to develop recommended regulation amendments for Department consideration through the collaborative approach of regulatory negotiation and consensus. Multi-applications from a single company, organization, group or other entity count as one for purposes of making the decision specified in the preceding sentence. Notification of the composition of the panel will be sent to all applicants.

Contact Information

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