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WIND ENERGY IN FRANCE
LEGAL FRAMEWORK : WHAT'S NEW ?

18 April 2012

Bureau de coordination énergies renouvelables
Koordinierungsstelle Erneuerbare Energien

EWEA 2012 COPENHAGEN
EUROPE'S PREMIER WIND ENERGY EVENT
16 - 19 APRIL

Introduction : Some Figures

- **Ambitious target**

  For 2020 : 25.000 MW

  - ➥ Onshore : 19.000 MW
  - ➥ Offshore : 6.000 MW

  For 2012 : 11.500 MW

  - ➥ Onshore : 10.500 MW
  - ➥ Offshore : 1.000 MW

- Installed wind capacity 2011 : ≈ 6.800 MW

- **Obstacles :**
  - ➥ Powerful anti-wind lobby
  - ➥ Litigation (building permit, ZDE, onshore feed in tariff)
  - ➥ New legal framework of Grenelle 2
    (ZDE, SER, ICPE … new constraints)

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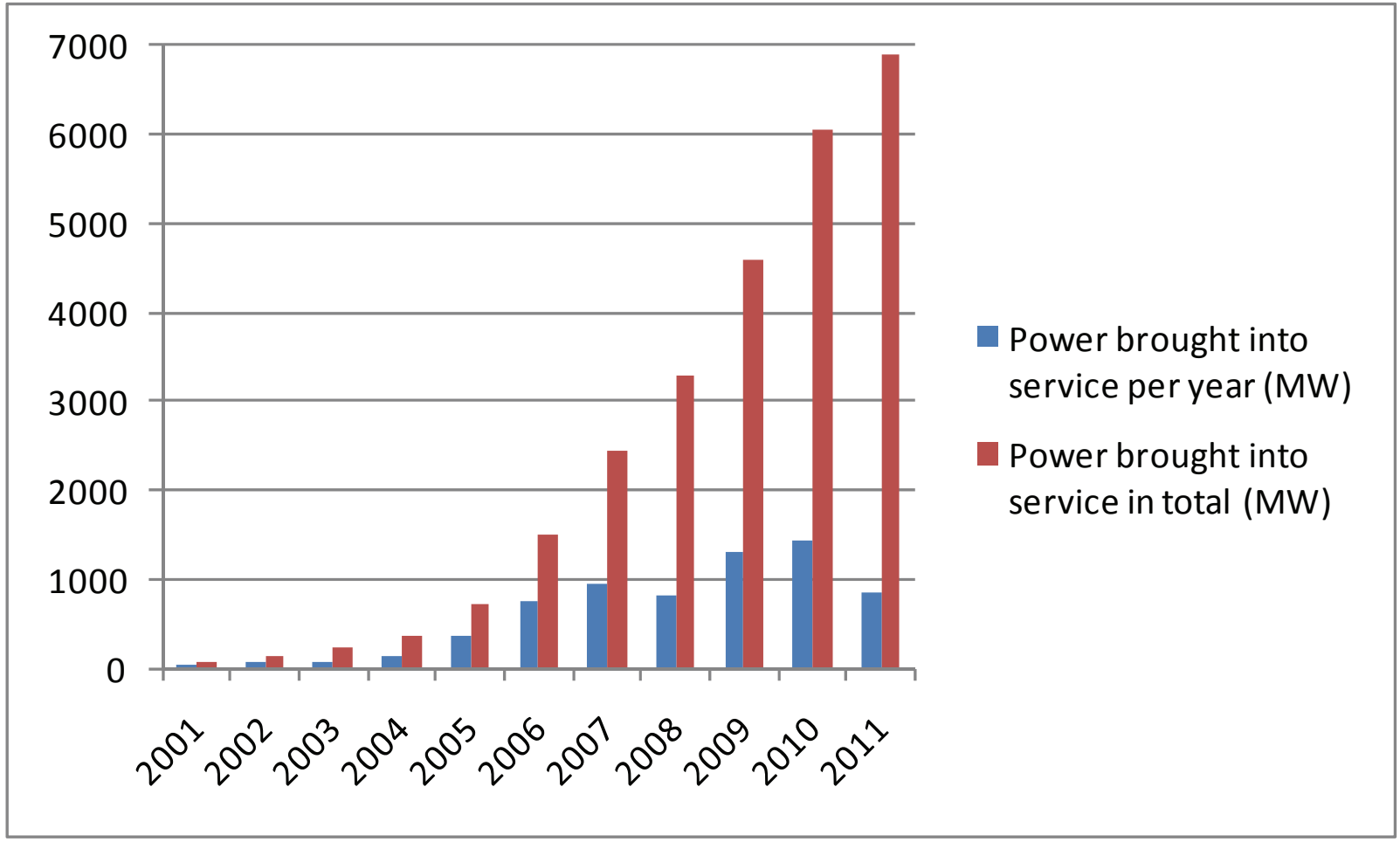
Increasing installed wind capacity
(SER/SIER – 31/12/2011)



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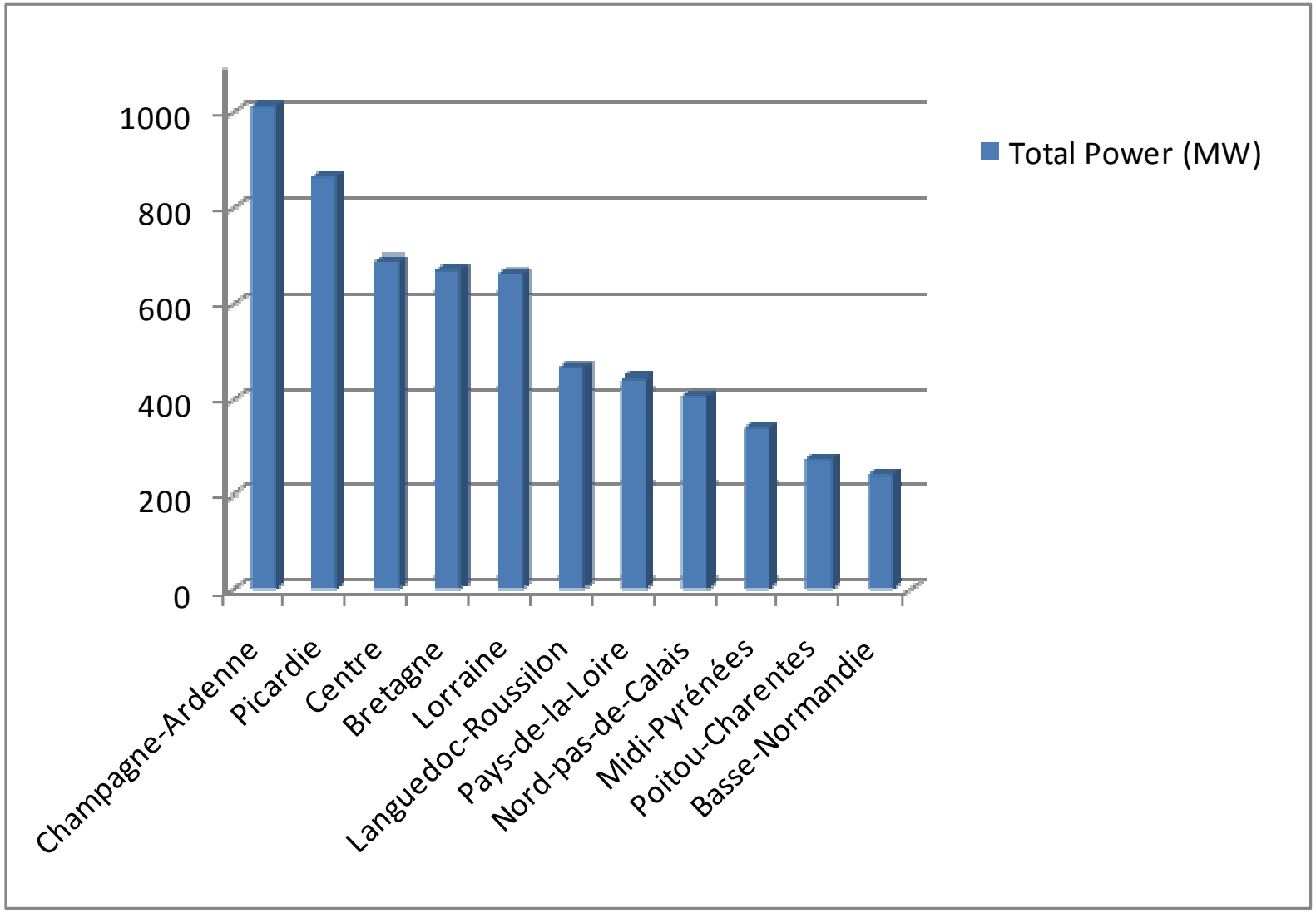
Distribution by region



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Statistics of Wind Parks in France on 31/12/2011 (SER / SIER)

Status	Parks	Power (MW)	Turbines
Installed	631	6898	4135
Building permit accorded	295	4415	2065
Building permit refused	132	1879	887
Installed in 2011	72	850	408
Accorded in 2011	55	861	395

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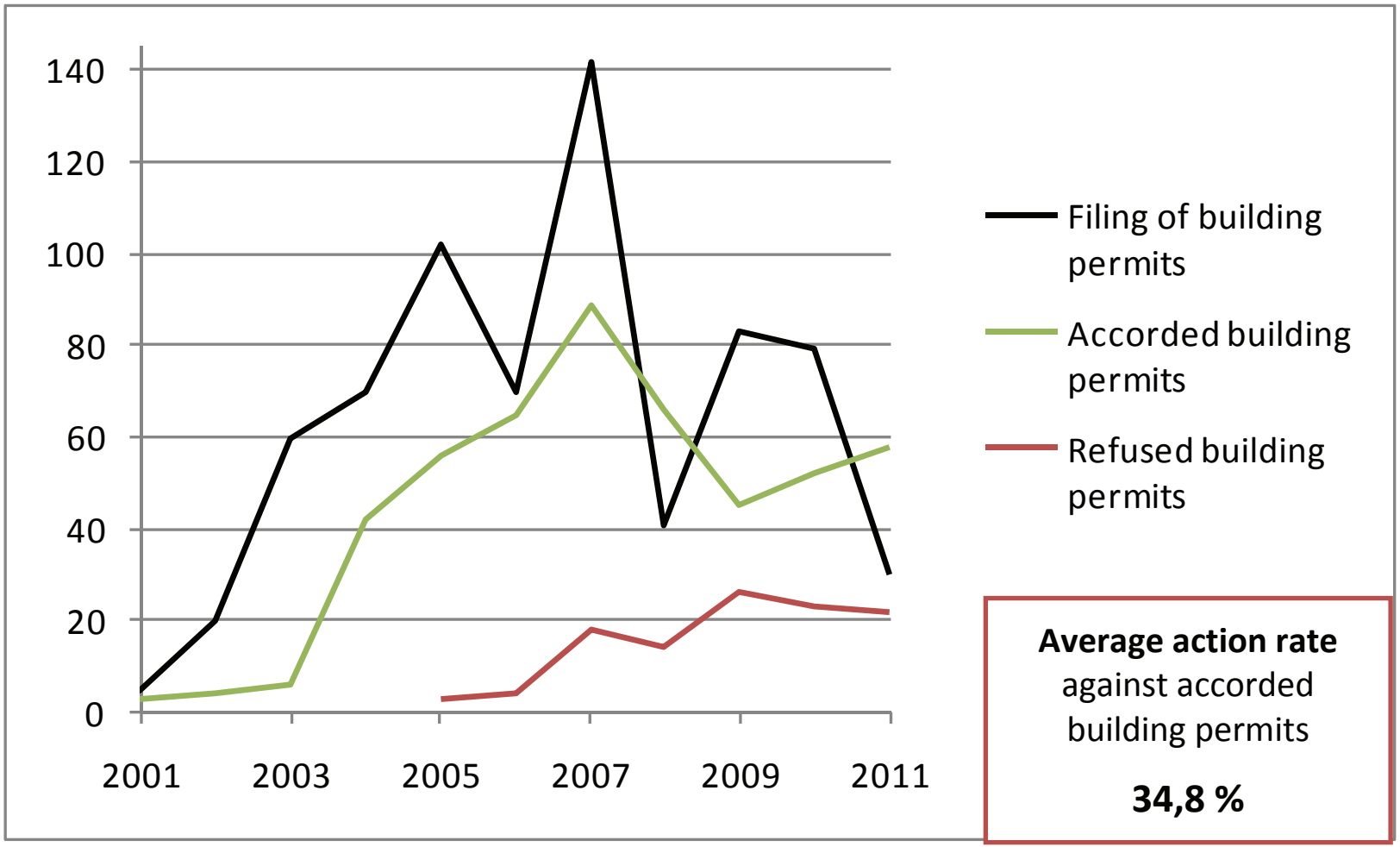
Development of filing, issuing and refusal of building permits per year



Average action rate against accorded building permits

34,8 %

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Legal Framework : What's new ?

Law n° 2010-788
of 12th July 2010
(Grenelle II)
Art. 89 and sqq.

ZDE	➢ Art. L 314-9 and sqq. Energy Law Code ➢ Instruction of Government of 25th October 2011
SRE	➢ Art. L 222-1 and sqq. Environmental Code ➢ Instruction of Government 29 July 2011
5 turbines rule/ 500m distance	➢ Art. L 314-1 n° 3 Energy Law Code
ICPE	➢ Art. L 553-1 and sqq. Environmental Code ➢ Decree n° 2011-984 and 2011-985 of 23rd August 2011 ➢ The three Ministerial Orders of 26th August 2011
Impact Study Public enquiry	➢ Decree n° 2011-2019 of 29th December 2011 ➢ Decree n° 2011-2018 of 29th December 2011

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New Planification Rules set up by Grenelle 2 : ZDE

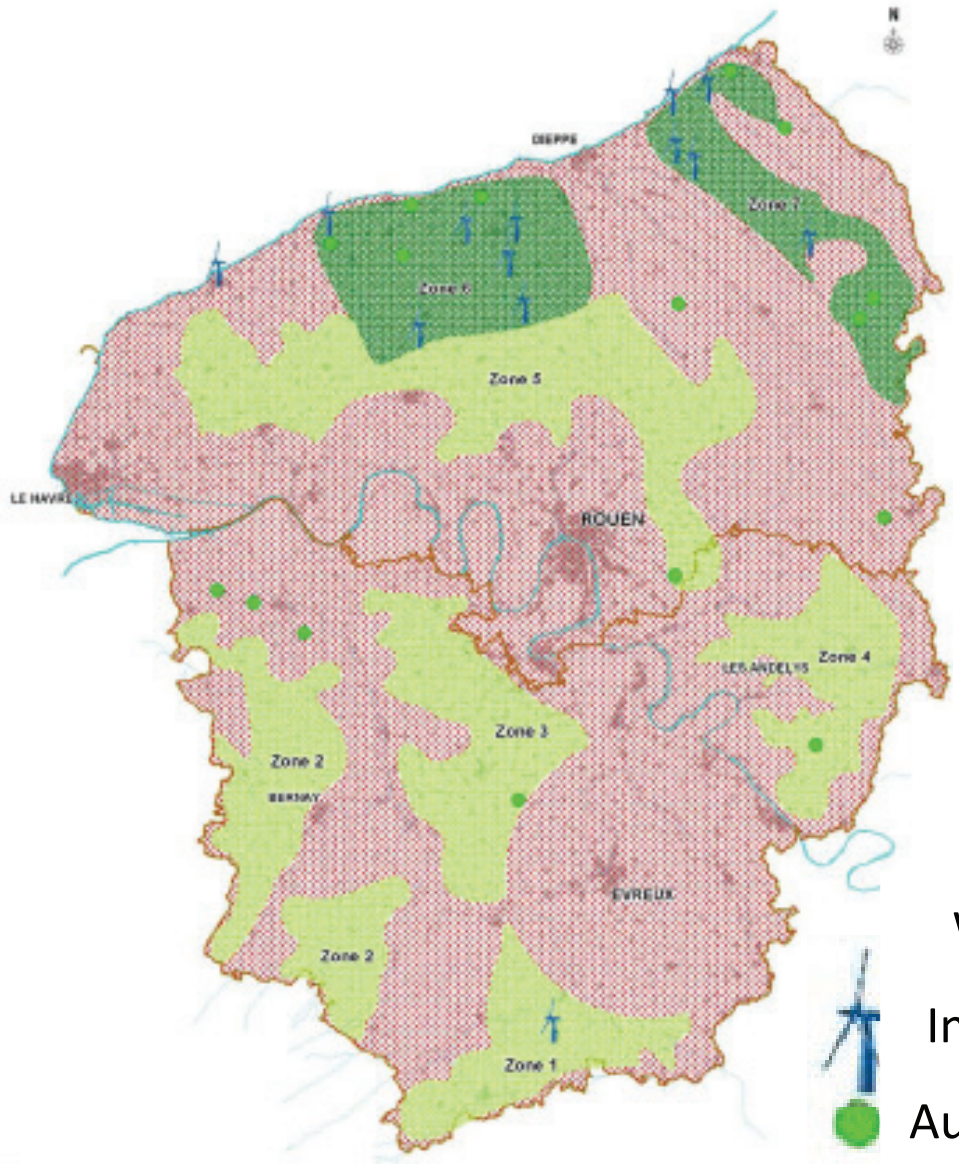
- Consolidation of the establishment of wind power development zones (ZDE) with 3 new parameters :
  - ➥ Initial parameters :
    - Wind potential
    - Landscape protection
    - Cultural heritage
    - Grid connection potential
  - ➥ New parameters :
    - Biodiversity
    - Public safety
    - Archaeology heritage

- New ZDE to be located in the new Regional Wind Plans (SRE)

New Planification Rules set up by Grenelle 2 : SRE

- Part of the regional plan on climate, air and energy (SRCAE)
- Each region has to define favorable areas based on the technical environmental and landscape constraints of each municipality
- Parameters:
  - wind potential, biodiversity, grid connection potential, existing landscape and buildings
- Deadline for publication 30.06.2012, if not 30.09.2012 local government authority (Préfet de région)
- Instruction of government 29.07.2011 :
  - Large favorable zone in each region
- Current situation : work in progress !
  - Each region has its own methods and local constraints
  - Risk of increasing zone of exclusion
  - SRE subject to recourse

Draft SER : Haute-Normandie



Target : 851 / 1.076 MW

Limited favorable zones

Favorable zone for new wind farms

Favorable zones for growth in power of existing wind farms

Non-favorable zone

Wind farms

In service (13)

Authorized (16)

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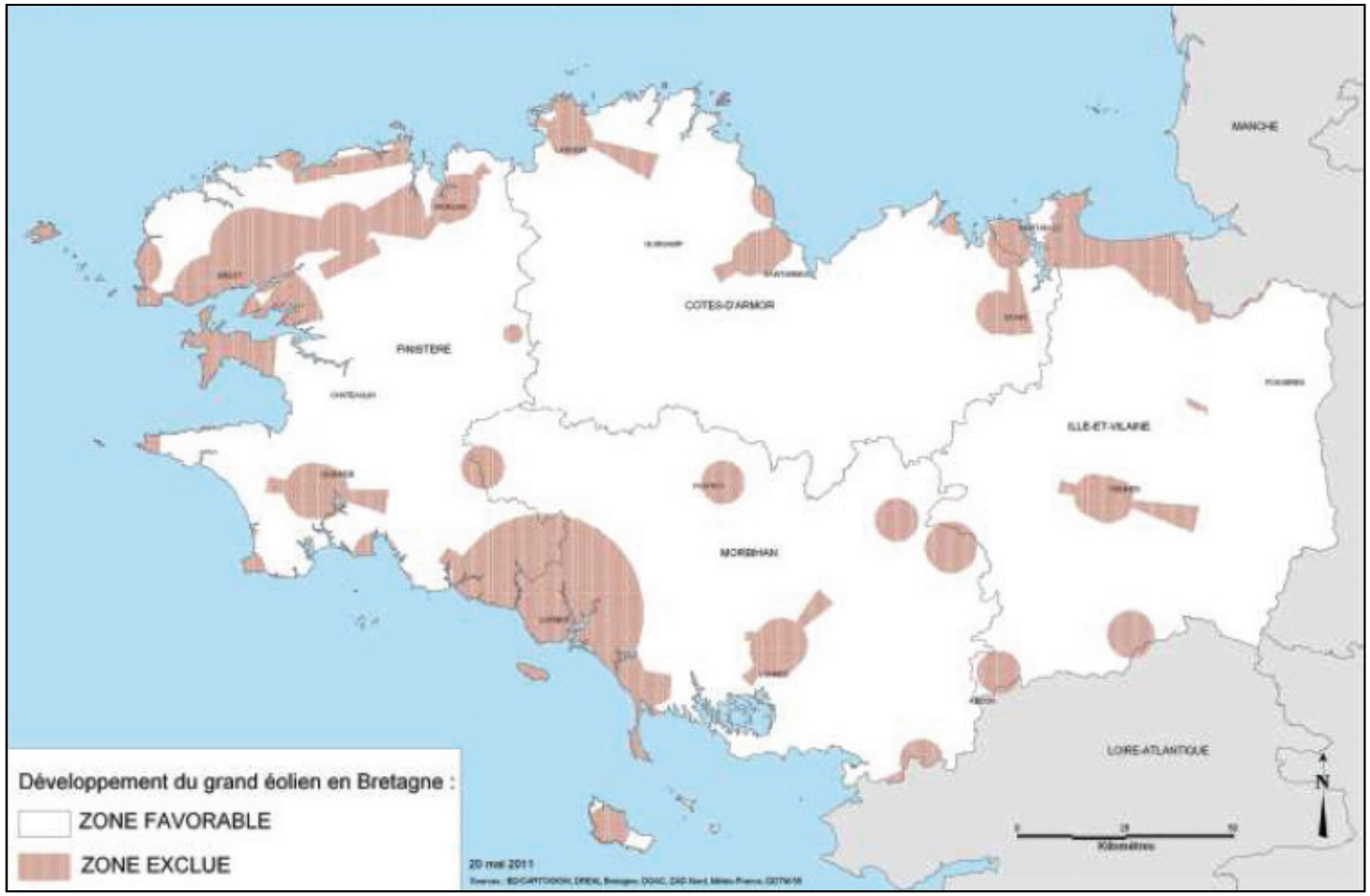
Draft SER :Bretagne



Target : 1.800 / 2.500 MW

Large favorable zones

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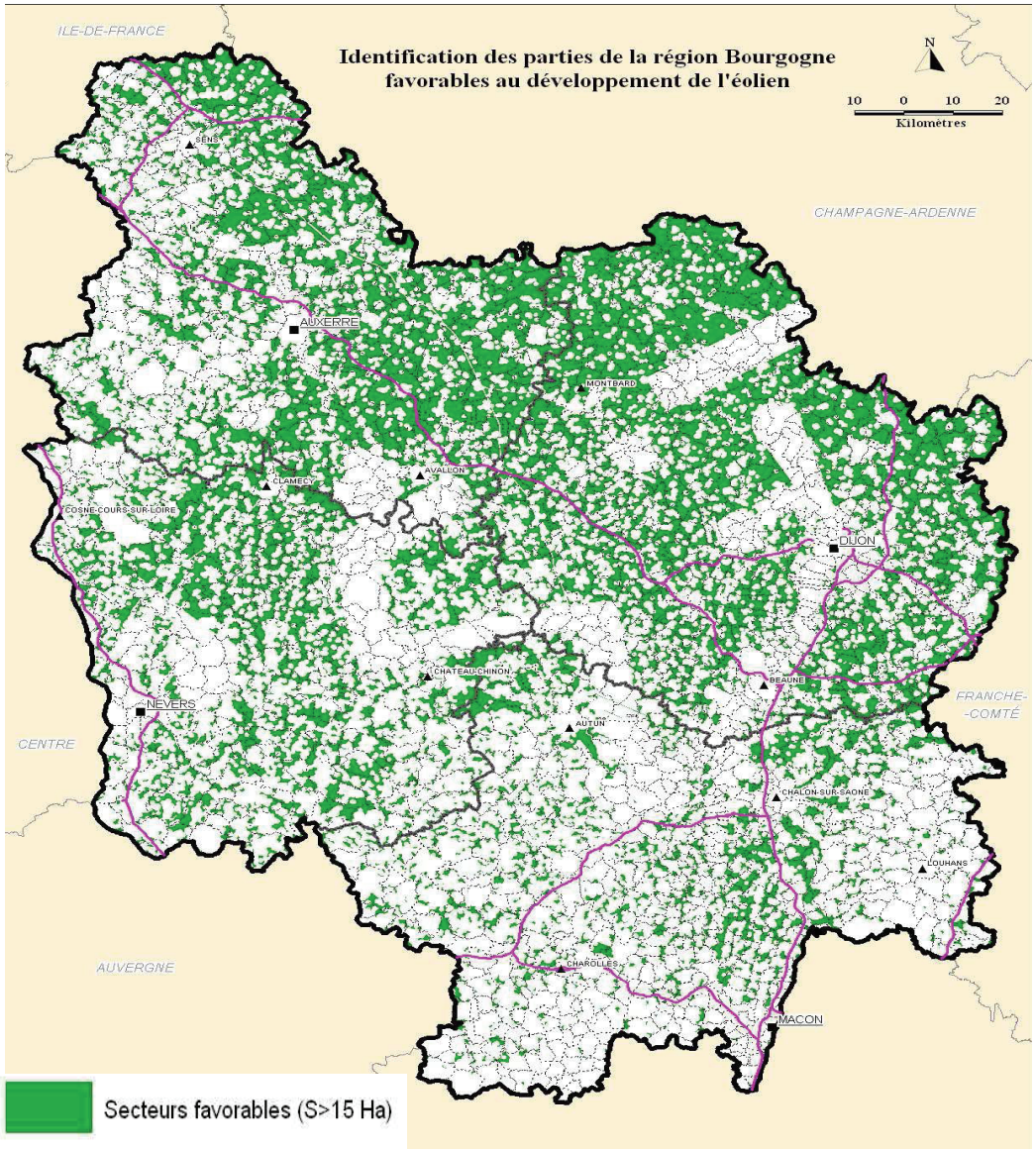
Draft SER : Bourgogne



Target : 1.600 MW
Large favorable zones

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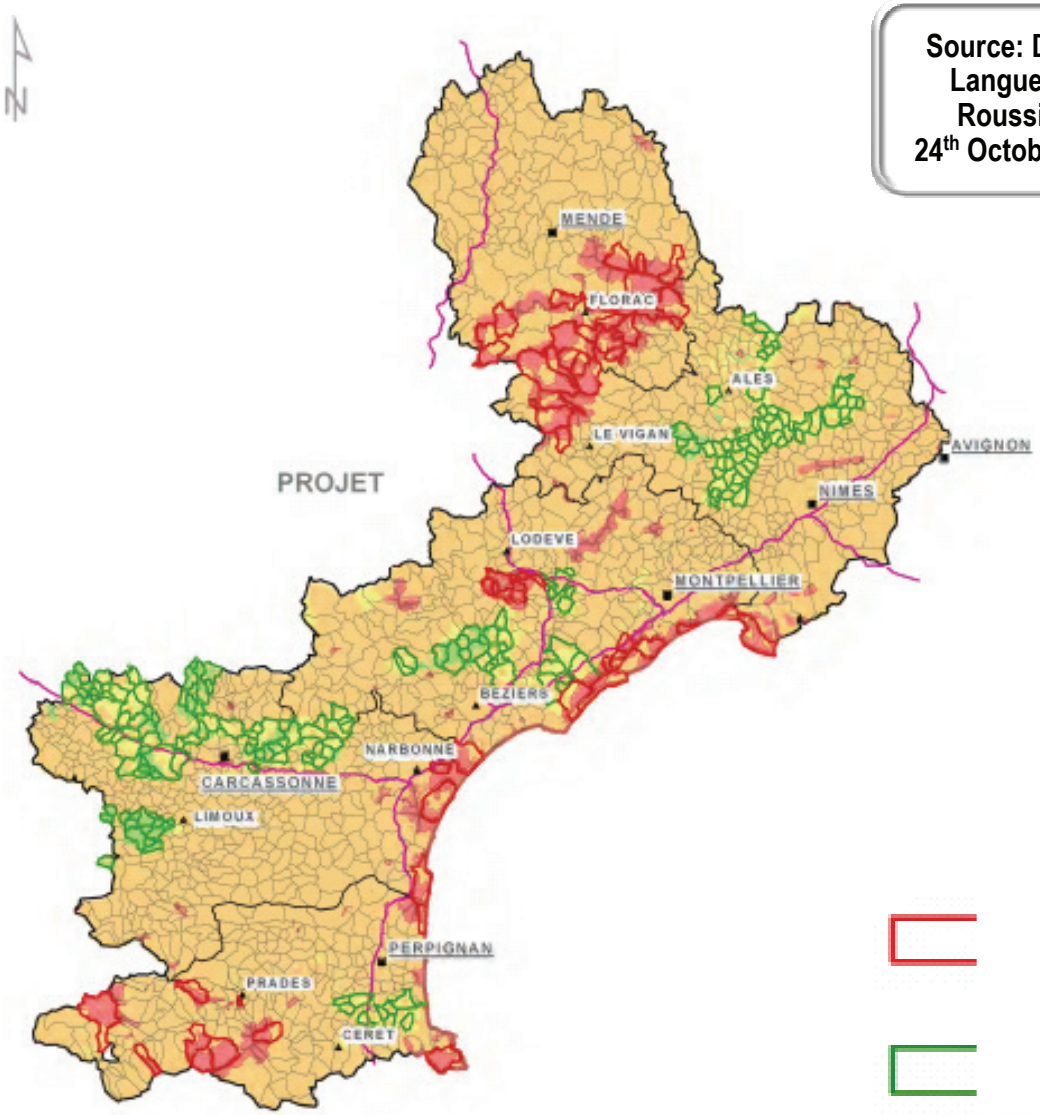
Draft SER : Languedoc-Roussillon



Source: DREAL Languedoc-Roussillon
24th October 2011

Target : 2.500 MW
20% excluded zones

Excluded Zone

Favorable Zone

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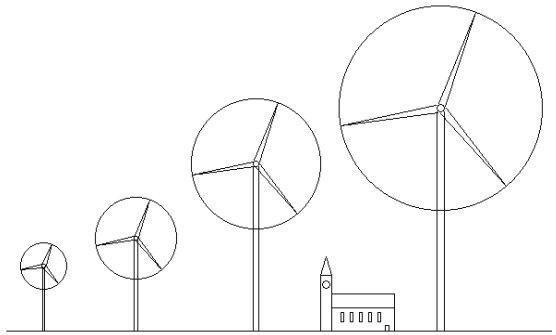
New Planification Rules set up by Grenelle 2

Distance Constraints :

- Minimum distance of 500m from housing
- Minimum distance of 10 to 30 km from radars



5 Turbine Rules :

Only wind parks with at least 5 turbines benefit from the power purchase obligation

- Distance between each turbine is still to be defined
- New tool to harm the development of wind energy
- ⇨ 50% of the wind park in Bretagne < 5 turbines

ICPE Rules : Existing Wind Farms

- **Transitory regime** applicable to Existing Wind Farms :
  - Commissioned , building permit, opening order for public enquiry prior to 13 July 2011
  - No ICPE authorization required

- **Applicable Obligations**
  - Information letter to the Prefect before 26 August 2012
  - Prefect may impose improvements regarding security and health, without substantial modification of construction works
  - Some provisions of Ministerial Order 26 August 2011 apply as of 1st January 2012 :
    - Safety rules
    - Noise protection rules
    - Environmental follow-up
    - Dismantling

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ICPE Rules : New Wind Farms

- Necessary coordination of the **ICPE and Building Permit Procedure**
  - Ministerial Order 17.10.2011 :
    - Procedural time limit : 1 year
    - Suspension of validity period of each authorization if one is challenged

- **ICPE Licensing Procedure** :
  - Carried out per wind farm and not for each individual wind turbine
  - Agreement with radar operator to be obtained prior filing the application file
  - Application file contains i.e. impact study, risk analysis, technical and financial resources of the petitioner
  - Draft authorization sent by Préfet, technical prescription can be discussed with petitioner
  - Validity period of the authorization : 3 years
  - Opposition period : 6 months for third party

ICPE Rules : New Wind Farms

- **Requirements as to financial and technical resources**
  - Detailed information on the capacity of the petitioner
    - to operate the installations
    - to ensure and finance the dismantling
  - Usual requirements for ICPE facilities but new constraints for wind farm operators
  - Content not defined by environmental code
  - Existing case law for other ICPE facilities:
    - resources of the petitioner not only of the parent company
    - short affidavit of the bank not sufficient, business plan, financial structure of the project, detailed economic survey required
    - information on construction, maintenance contracts, list of sub-contractor, employees
  - DGPR will propose a term sheet
  - If not sufficient ⇨ authorization not obtained or can be challenged by third party

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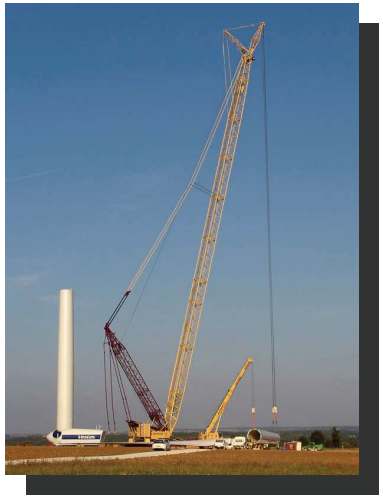
ICPE Rules : Dismantling – Financial Guarantees



- Responsible for the dismantling of wind farm and rehabilitation of the site (excavation of the foundations, of the cables, …) :
  - ➥ Operator or its parent company

- Mandatory funding of security bonds for dismantling
  - ➥ 50.000 € per turbine

    (400.000 € at least per wind park) before commissioning of the project
  - ➥ Written commitment of credit institution or insurance company
  - ➥ For existing wind farms required as of 25 August 2015

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Reform Impact Study / Public Inquiry Procedure (Summary)

Applicable as of 1st June 2012

- Impact Study
  - Initial environmental assessment of the site : focus on preservation of biodiversity, landscape, noise, air, pollution
  - Assessment of cumulative effects of wind farm projects (existing / in development)
  - Petitioner can request from the administrative authority a preliminary assessment on the content of impact study

- Public Enquiry Procedure
  - Petitioner may reply to the comments made during the procedure
    - Provide substantial modifications to the projects with suspension of the procedure during 6 months
  - Improvement of public participation in compliance with EU legislation
    - Meeting simplified, access via video, audio, internet

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Thank you for your attention !

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