

SENATE FILE NO. SF0036

Large scale solar and wind energy facilities.

Sponsored by: Joint Corporations, Elections & Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to regulation of solar and wind energy  
2 facilities; requiring permitting by boards of county  
3 commissioners of solar energy facilities; establishing  
4 minimum standards for solar and wind energy facilities;  
5 providing for referrals to the industrial siting council;  
6 amending the industrial siting council's jurisdiction over  
7 wind and solar energy facilities; specifying issues to  
8 consider in the permitting of solar and wind energy  
9 facilities; making conforming amendments; providing for  
10 rulemaking; and providing for effective dates.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 18-5-501(a)(ii), (iii) and by  
15 creating new paragraphs (v) through (ix), 18-5-502(a), (b)

1 and by creating a new subsection (e), 18-5-503(a)(intro),  
2 (i) through (iv), (vi), (vii), (ix) through (xi) and (b),  
3 18-5-504(a), by creating new paragraphs (vii) through (ix)  
4 and (c), 18-5-506, 18-5-507(a), 18-5-509(a) and (d),  
5 18-5-511(a)(iv) and by creating a new paragraph (vi),  
6 18-5-512(a)(i), (ii) and (c), 18-5-513(a),  
7 34-22-102(a)(i)(intro) and by creating a new subsection  
8 (b), 35-12-102(a)(vii)(E)(I), by creating a new  
9 subparagraph (G), (xi) and (xv), 35-12-105(d) through (f),  
10 35-12-107(b)(xiii) through (xv), (c)(i), (d)(ii), (g)(ii),  
11 (h)(iii) and (j)(iv), 35-12-109(a)(xx) through (xxii),  
12 35-12-110(a)(i), (f)(ii) and (g)(intro) and  
13 35-12-113(a)(iii), (iv) and by creating a new paragraph (v)  
14 are amended to read:

15

16

## ARTICLE 5

17

## WIND AND SOLAR ENERGY FACILITIES

18

19 **18-5-501. Definitions.**

20

21 (a) As used in this article:

22

1           (ii) "Wind energy facility" ~~or "facility"~~ means  
2 any wind powered electrical generation development  
3 consisting of an individual wind turbine or multiple wind  
4 turbines rated by the manufacturer to generate more than  
5 one-half (0.5) megawatt of electricity and includes all  
6 contiguous lands where the owner or developer has rights to  
7 erect wind turbines;

8  
9           (iii) "Enlarge" or "enlargement" means adding  
10 additional wind turbines or energy capacity which are not  
11 permitted as part of an original permitting process;

12  
13           (v) "Brownfield site" means a site previously  
14 used for an industrial, commercial or other use that may  
15 have impacted the property for some uses or made the  
16 property an unlikely candidate for restoration;

17  
18           (vi) "Facility" includes a wind energy facility  
19 or a solar energy facility unless the context clearly  
20 indicates otherwise;

21  
22           (vii) "Open land" means land characterized by a  
23 general lack of development on a landscape that may provide

1 historical context or other benefits and has no present or  
2 future expectation of development;

3  
4 (viii) "Solar energy facility" means a  
5 commercial facility with a rated power capacity of more  
6 than one-half (0.5) megawatt of electricity from solar  
7 power and includes all contiguous lands where the owner or  
8 developer has rights to erect solar energy facilities;

9  
10 (ix) "Undeveloped land" means land that does not  
11 have any major improvements and includes land currently  
12 used for agricultural or other uses that may later be  
13 platted or subdivided into residential parcels.

14  
15 **18-5-502. County regulation of wind or solar energy**  
16 **projects; exceptions.**

17  
18 (a) It is unlawful to locate, erect, construct,  
19 reconstruct or enlarge a ~~wind energy~~ facility without first  
20 obtaining a permit from the board of county commissioners  
21 in the county in which the facility is located.

22

1 (b) If a ~~wind-energy~~ facility is to be located in two  
2 (2) or more counties, a permit shall be obtained in each  
3 county in which the ~~wind-energy~~ facility is to be located.

4  
5 (e) No solar energy facility constructed or being  
6 constructed prior to July 1, 2020 shall be required to have  
7 the permit required by this section. Any solar energy  
8 facility that is not required to have a permit pursuant to  
9 this subsection shall be required to obtain a permit for  
10 any enlargement of the facility after July 1, 2020.

11  
12 **18-5-503. Application.**

13  
14 (a) To obtain the permit required by W.S. 18-5-502,  
15 the owner or developer of a ~~wind-energy~~ facility shall  
16 submit an application to the board of county commissioners.  
17 The application shall:

18  
19 (i) Certify that reasonable efforts have been  
20 undertaken to provide notice in writing to all owners of  
21 land within one (1) mile of the proposed ~~wind-energy~~  
22 facility, to the military department if it owns or occupies  
23 any land within five (5) miles of the proposed facility and

1 to all cities and towns located within twenty (20) miles of  
2 the ~~wind energy~~ facility. Notice shall include a general  
3 description of the project including its location,  
4 projected number and capacity of turbines or solar energy  
5 facilities, and the likely routes of ingress and egress and  
6 the likely location of electric transmission and other  
7 facilities;

8  
9 (ii) Certify that notice of the proposed ~~wind~~  
10 ~~energy~~ facility will be published in a newspaper of general  
11 circulation in all counties in which the facility will be  
12 located at least twenty (20) days prior to the public  
13 hearing required by W.S. 18-5-506. The notice shall  
14 include a brief summary of the ~~wind energy~~ facility, invite  
15 the public to submit comments and identify the time and  
16 date of the hearing;

17  
18 (iii) Certify that the proposed ~~wind energy~~  
19 facility will comply with all the standards required by  
20 W.S. 18-5-504;

21  
22 (iv) Certify that the proposed ~~wind energy~~  
23 facility will comply with all applicable zoning and county

1 land use regulations, which regulations shall be no less  
2 stringent than the standards required by this article;

3

4 (vi) Provide a waste management plan that  
5 includes an inventory of estimated solid wastes and a  
6 proposed disposal program for the construction, operation  
7 and eventual decommissioning of the proposed ~~wind~~-energy  
8 facility;

9

10 (vii) Provide evidence sufficient for the board  
11 of county commissioners to determine if the proposed ~~wind~~  
12 ~~energy~~-facility has adequate legal access. The application  
13 also shall describe how private roadways within the  
14 facility will be marked as private roadways and shall  
15 acknowledge that no county is required to repair, maintain  
16 or accept any dedication of the private roadways to the  
17 public use. The application also shall include a traffic  
18 study of any public roadways leading to and away from the  
19 proposed facility and the board of county commissioners may  
20 require the applicant to enter into a reasonable road use  
21 agreement for the use of county roads prior to construction  
22 of the facility;

23

1           (ix) Certify that there shall be no advertising  
2 or promotional lettering on any solar energy facility,  
3 tower, turbine, nacelle or blade beyond the manufacturer's  
4 or the applicant's logo on the solar energy facility or the  
5 nacelle of the turbine;

6  
7           (x) Provide a site and facility reclamation and  
8 decommissioning plan which indicates the planned life of  
9 the ~~wind energy~~ facility and the means by which the  
10 facility and its site will be decommissioned and reclaimed  
11 at the end of the facility's life and which certifies that  
12 any owner of land within the ~~wind energy~~ facility and its  
13 site who is not the applicant has been consulted in  
14 development of the reclamation and decommissioning plan.  
15 Such plan shall comply with all requirements adopted by the  
16 industrial siting council under W.S. 35-12-105(d). If the  
17 permit is granted, the plan shall be updated every five (5)  
18 years until site reclamation and decommissioning is  
19 complete;

20  
21           (xi) For wind energy facilities and solar energy  
22 facilities not meeting the definition of ~~a~~ an industrial  
23 facility as defined in W.S. 35-12-102(a)(vii) (E) or (G),



1 provide a detailed summary of any significant adverse  
2 environmental, social or economic effects that the proposed  
3 ~~wind energy~~ facility may have together with any preliminary  
4 plans developed to alleviate any of the adverse effects.

5

6 (b) A ~~wind energy~~ facility subject to this article  
7 shall meet the requirements adopted pursuant to W.S.  
8 35-12-105(d) and (e) regardless of whether the facility is  
9 referred to the industrial siting council pursuant to W.S.  
10 18-5-509 or is otherwise subject to the industrial siting  
11 act.

12

13 **18-5-504. Minimum standards; incorporation into other**  
14 **processes.**

15

16 (a) No board of county commissioners shall issue a  
17 permit for a ~~wind energy~~ facility if that facility:

18

19 (i) Does not comply with standards properly  
20 adopted by the board of county commissioners for the  
21 construction of wind energy facilities or solar energy  
22 facilities, which standards shall not be less stringent  
23 than the standards required by this article;

1

2           (ii) For wind energy facilities, would locate  
3 the base of any tower at a distance of less than one  
4 hundred ten percent (110%) of the maximum height of the  
5 tower from any property line contiguous or adjacent to the  
6 facility, unless waived in writing by the owner of every  
7 property which would be located closer than the minimum  
8 distance;

9

10           (iii) For wind energy facilities, would locate  
11 the base of any tower at a distance of less than one  
12 hundred ten percent (110%) of the maximum height of the  
13 tower from any public road right-of-way;

14

15           (iv) For wind energy facilities, would construct  
16 any tower or other structure, other than underground  
17 structures, transmission lines, roadways and structures  
18 appurtenant to roadways, at a distance of less than five  
19 and one-half (5.5) times the maximum height of the tower,  
20 but in no event less than one thousand (1,000) feet from  
21 any platted subdivision unless this restriction is waived  
22 in writing by the owners of all lands included within the  
23 distance specified in this paragraph;

1

2 (v) For wind energy facilities, would locate the  
3 base of any tower at a distance of less than five and  
4 one-half (5.5) times the maximum height of the tower, but  
5 in no event less than one thousand (1,000) feet from a  
6 residential dwelling or occupied structure, unless waived  
7 in writing by the person holding title to the residential  
8 dwelling or occupied structure;

9

10 (vi) For wind energy facilities, would locate  
11 the base of any tower at a distance of less than one-half  
12 (1/2) mile from the limits of any city or town~~i-~~

13

14 (vii) For solar energy facilities:

15

16 (A) Would locate the facility within two  
17 thousand (2,000) feet of an occupied structure or residence  
18 if on undeveloped land or open land unless waived in  
19 writing by the owner of every property which would be  
20 located within two thousand (2,000) feet of the facility;

21

22 (B) Would locate the facility within two  
23 thousand (2,000) feet of any boundary of an area of likely

1 future development if on undeveloped land. For purposes of  
2 this subparagraph, "area of likely future development" may  
3 include an area within or close to a platted subdivision or  
4 an area within or close to an area of potential annexation;

5  
6 (C) Would locate the facility within one  
7 hundred (100) feet of an occupied structure or any public  
8 road right-of-way if on a brownfield site unless the height  
9 of any component of the facility does not exceed ten (10)  
10 feet from the surface of the ground;

11  
12 (D) Would locate the facility on  
13 undeveloped land less than two hundred (200) feet from any  
14 public road right-of-way;

15  
16 (E) Would locate the facility on open land  
17 less than one-half (1/2) mile from any public road  
18 right-of-way.

19  
20 (viii) Fails to obtain a determination of no  
21 hazard from the federal aviation administration and  
22 documentation from the federal military aviation and  
23 installation assurance siting clearinghouse that resolves

1 any potential adverse impact on military operations and  
2 readiness and that commits to implement required mitigation  
3 measures;

4  
5 (ix) For wind energy facilities, would locate  
6 the base of any tower at a distance of less than two (2)  
7 miles from any active federal department of defense missile  
8 launch or control facility or within any active missile  
9 complex unless waived by the military installation  
10 commander or the commander's written designee. Waivers  
11 under this paragraph shall not be unreasonably denied.

12  
13 (c) No board of county commissioners shall issue a  
14 permit under W.S. 18-5-502(a) until that county has adopted  
15 rules and regulations governing the notice that the  
16 application for a permit must provide to the record owners  
17 and claimants of mineral rights located on and under lands  
18 where the ~~wind energy~~ facility will be constructed. The  
19 rules shall conform to rules adopted by the industrial  
20 siting council for the same purpose pursuant to W.S.  
21 35-12-105.

22  
23 **18-5-506. Hearing and public comment.**

1

2 Any board of county commissioners receiving an application  
3 to permit a ~~wind-energy~~ facility shall hold a public  
4 hearing to consider public comment on the application no  
5 less than forty-five (45) days and not more than sixty (60)  
6 days after determining that the application is complete.

7 Written comment on the application shall be accepted by the  
8 board of county commissioners for not less than forty-five  
9 (45) days after determining that the application is  
10 complete.

11

12 **18-5-507. Decision of the board; findings necessary.**

13

14 (a) Within forty-five (45) days from the date of  
15 completion of the hearing required by W.S. 18-5-506, the  
16 board shall make complete findings, issue an opinion,  
17 render a decision upon the record either granting or  
18 denying the application and state whether or not the  
19 applicant has met the standards required by this article.  
20 The decision shall be subject to the remedies provided in  
21 W.S. 18-5-508. The board shall grant a permit if it  
22 determines that the proposed ~~wind-energy~~ facility complies

1 with all standards properly adopted by the board of county  
2 commissioners and the standards required by this article.

3

4 **18-5-509. Referral.**

5

6 (a) Any board of county commissioners which receives  
7 an application to permit a wind energy facility or solar  
8 energy facility which does not meet the definition of a-an  
9 industrial facility as defined in W.S. 35-12-102(a)(vii)(E)  
10 or (G) may refer the facility to the industrial siting  
11 council for additional permitting consistent with the  
12 requirements of the Industrial Development Information and  
13 Siting Act, W.S. 35-12-101 through 35-12-119, but the  
14 provisions of W.S. 39-15-111 and 39-16-111 shall not apply.  
15 A referral shall be made only when a board of county  
16 commissioners finds there are potentially significant  
17 adverse environmental, social or economic issues which the  
18 county board of commissioners does not have the expertise  
19 to consider or authority to address.

20

21 (d) A referral made pursuant to this section shall  
22 not relieve a board of county commissioners from its  
23 obligation to consider whether the proposed wind-energy

1 facility should be permitted under the standards required  
2 by this article.

3

4 **18-5-511. Revocation or suspension of permit.**

5

6 (a) A permit may be revoked or suspended for:

7

8 (iv) Failure of the proposed ~~wind—energy~~  
9 facility to receive a required permit from the industrial  
10 siting council pursuant to the Industrial Development  
11 Information and Siting Act, W.S. 35-12-101 through  
12 35-12-119; ~~or~~

13

14 (vi) Failure of the permitted solar energy  
15 facility to maintain land rights necessary to operate the  
16 solar energy facility.

17

18 **18-5-512. Penalties for violations.**

19

20 (a) No person shall:

21

22 (i) Commence to construct a wind energy facility  
23 on or after July 1, 2010 or a solar energy facility on or



1 after July 1, 2020 without first obtaining a permit  
2 required by this article;

3

4 (ii) Construct, reconstruct, operate, locate,  
5 erect, maintain, enlarge, change or use a ~~wind-energy~~  
6 facility, after having first obtained a permit, other than  
7 in specific compliance with the permit; or

8

9 (c) Any wind turbine tower, ~~or~~ wind generator or  
10 portion thereof or any solar energy panel or facility or  
11 portion thereof erected in violation of this article shall  
12 subject the owner of the tower, ~~or~~ generator or solar  
13 energy panel or facility to a penalty of seven hundred  
14 fifty dollars (\$750.00) per day for every tower, ~~or~~  
15 generator or solar energy panel or facility so erected.

16

17 **18-5-513. Fees.**

18

19 (a) A board of county commissioners which receives an  
20 application under this article for the permitting of a ~~wind~~  
21 ~~energy~~ facility may charge the applicant a reasonable fee  
22 which shall not exceed the reasonably anticipated costs of

1 processing and considering the application and conducting  
2 public hearings.

3

4 **34-22-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Solar collector," except as provided in  
9 subsection (b) of this section, is one (1) of the following  
10 which is capable of collecting, storing or transmitting at  
11 least twenty-five thousand (25,000) BTU's on a clear winter  
12 solstice day:

13

14 (b) For purposes of this act, "solar collector" shall  
15 not include a solar collector that is part of a facility  
16 that:

17

18 (i) Has a rated power capacity of more than  
19 thirty (30) megawatts;

20

21 (ii) Would result in a surface disturbance equal  
22 to or greater than one hundred (100) acres; or

23

1           (iii) Would cause interference with  
2 archaeological or historical resources as listed in W.S.  
3 35-12-109(a)(xiii)(C).

4  
5           **35-12-102. Definitions.**

6  
7           (a) As used in this chapter:

8  
9           (vii) "Industrial facility" or "facility" means  
10 any industrial facility with an estimated construction cost  
11 of at least ninety-six million nine hundred thousand  
12 dollars (\$96,900,000.00) as of May 30, 1987. Exempt  
13 activities shall not be included in the estimated  
14 construction cost of an industrial facility. The council  
15 shall adjust this amount, up or down, each year using  
16 recognized construction cost indices as the council  
17 determines to be relevant to the actual change in  
18 construction cost applicable to the general type of  
19 construction covered under this chapter. "Facility" also  
20 includes, regardless of construction cost:

21

1                   (E) Any commercial facility generating  
2 electricity from wind and associated collector systems  
3 that:

4

5                   (I) Consists of ~~thirty (30) twenty~~  
6 (20) or more wind turbines in all planned phases of the  
7 installation; or

8

9                   (G) Any commercial facility generating  
10 electricity from solar power and associated solar collector  
11 systems if the facility:

12

13                   (I) Has a rated power capacity of more  
14 than thirty (30) megawatts;

15

16                   (II) Would result in a surface  
17 disturbance equal to or greater than one hundred (100)  
18 acres;

19

20                   (III) Would cause interference with  
21 archaeological or historical resources as listed in W.S.  
22 35-12-109(a)(xiii)(C); or

23

1                   (IV) Is expanded to where the facility  
2 would satisfy any one (1) of subdivisions (I) through (III)  
3 of this subparagraph.

4  
5                   (xi) "Person" includes an individual, group,  
6 firm, partnership, corporation, cooperative, association,  
7 or other entity excluding the state, federal government and  
8 local government. "Person" also includes the parent  
9 company, partnership or holding entity for a commercial  
10 facility generating electricity from wind or solar;

11  
12                   (xv) "Affected landowner" means any person  
13 holding record title to land on which any portion of a  
14 commercial facility generating electricity from wind or  
15 solar is proposed to be constructed and including any  
16 portion of any collector system located on those same  
17 lands. For purposes of this chapter, an affected landowner  
18 may:

19  
20                   (A) Be represented by any designated  
21 person- except that any military installation shall only be  
22 represented by the military installation commander or the  
23 commander's written designee;

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(B) Include the federal government and any federal military installation within Wyoming holding record title.

**35-12-105. Appointment and duties of administrator; staff; rules and regulations.**

(d) In addition to the rules and regulations adopted under subsection (b) of this section, the council shall promulgate rules and regulations prescribing decommissioning and site reclamation standards for facilities permitted under W.S. 35-12-102(a)(vii)(E), and (F) and (G). Such standards shall preempt county rules or regulations concerning decommissioning and reclamation and shall be designed to assure the proper decommissioning and interim and final site reclamation of commercial facilities generating electricity from wind or solar and wind energy and solar energy facilities during construction and operation of the facility, at the end of their useful life, upon revocation of a permit authorizing their operation or upon the happening of any event which causes operations to cease. The council's regulation shall only preempt those

1 facilities regulated under this act. In the event of any  
2 conflict between a standard applied under this subsection  
3 and a valid order of the Wyoming public service commission,  
4 the order of the public service commission shall be  
5 applied.

6

7 (e) In addition to the rules and regulations adopted  
8 under subsection (b) of this section, the council shall  
9 promulgate rules and regulations prescribing financial  
10 assurance requirements for facilities permitted by it  
11 pursuant to W.S. 35-12-102(a)(vii)(E), ~~and~~ (F) and (G).  
12 These rules and regulations shall not apply to facilities  
13 that are public utilities and regulated by the Wyoming  
14 public service commission. These rules and regulations  
15 shall preempt county rules and regulations concerning  
16 financial assurances and shall be designed to provide  
17 adequate assurance that the permitted facilities will be  
18 properly reclaimed and decommissioned at the end of their  
19 useful life, upon revocation of a permit authorizing their  
20 operation or upon the happening of any event which causes  
21 operations to cease. The elements to consider when  
22 establishing adequate levels of financial assurance shall  
23 include credit worthiness, financial strength, credit

1 history, credit rating and any other factors that  
2 reasonably bear upon the decision to accept a financial  
3 assurance. The financial assurance may be in any form  
4 acceptable to the council and may include a corporate  
5 guarantee, letter of credit, bond, deposit account or  
6 insurance policy that is specific to the proposed project.

7  
8 (f) In addition to the rules and regulations adopted  
9 under subsection (b) of this section, the council shall  
10 promulgate rules and regulations requiring applicants for  
11 facilities described in W.S. 35-12-102(a)(vii)(E), ~~and~~ (F)  
12 and (G) to provide notice to record owners of mineral  
13 rights located on or under the lands where the proposed  
14 facility will be constructed. Such notice may include  
15 notice by publication.

16  
17 **35-12-107. Request for waiver of permit application;**  
18 **form.**

19  
20 (b) A request for a waiver shall be filed with the  
21 division, in a form as prescribed by council rules and  
22 regulations, and shall contain the following information:

23



1           (xiii) For facilities permitted pursuant to W.S.  
2 35-12-102(a)(vii)(E), ~~or~~ (F) or (G), a site reclamation and  
3 decommissioning plan, which shall be updated every five (5)  
4 years and a description of a financial assurance plan which  
5 will assure that all facilities will be properly reclaimed  
6 and decommissioned. All such plans, unless otherwise  
7 exempt, shall demonstrate compliance with any rules or  
8 regulations adopted by the council pursuant to W.S.  
9 35-12-105(d) and (e);

10

11           (xiv) Information demonstrating the applicant's  
12 financial capability to decommission and reclaim the  
13 facility. For facilities meeting the definition of W.S.  
14 35-12-102(a)(vii)(E) or (G) the information shall also  
15 demonstrate the applicant's financial capability to  
16 construct, maintain and operate the facility;

17

18           (xv) For proposed facilities meeting the  
19 requirements of W.S. 35-12-102(a)(vii)(E), ~~or~~ (F) or (G), a  
20 list of all affected landowners with an address at which  
21 each affected landowner can be given the notices required  
22 by this act.

23

1           (c) Not more than seven (7) days following receipt of  
2 a request for a waiver, the director shall:

3

4           (i) Serve notice of the request upon the  
5 governing bodies of local governments which will be  
6 primarily affected by the proposed facility and, for  
7 proposed facilities meeting the requirements of W.S.  
8 35-12-102(a)(vii)(E), ~~or~~ (F) or (G), upon affected  
9 landowners;

10

11           (d) Not more than fourteen (14) days following  
12 receipt of a request, the director shall:

13

14           (ii) Notify the applicant and local governments  
15 of the meeting and, for proposed facilities meeting the  
16 requirements of W.S. 35-12-102(a)(vii)(E), ~~or~~ (F) or (G),  
17 notify affected landowners;

18

19           (g) Not more than fifty (50) days following receipt  
20 of a request, the director shall:

21

22           (ii) Notify the applicant and local governments  
23 of the hearing and, for proposed facilities meeting the

1 requirements of W.S. 35-12-102(a)(vii)(E), ~~or (F)~~ or (G),  
2 notify affected landowners;

3

4 (h) The applicant shall present any evidence  
5 necessary to demonstrate to the council:

6

7 (iii) That the applicant has financial resources  
8 to decommission and reclaim the facility. For facilities  
9 meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G)  
10 the evidence shall also demonstrate the applicant's  
11 financial capability to construct, maintain and operate the  
12 facility.

13

14 (j) Within ten (10) days from the date of completion  
15 of the hearing the council shall make complete findings,  
16 issue an opinion and render a decision upon the record,  
17 either granting or denying the request for a waiver. The  
18 council shall grant a request for a waiver either as  
19 proposed or as modified by the council if it finds and  
20 determines that:

21

22 (iv) The applicant has financial resources to  
23 decommission and reclaim the facility. For facilities

1 meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G)  
2 the council shall also be required to find the applicant  
3 has financial resources to construct, maintain and operate  
4 the facility.

5

6 **35-12-109. Application for permit; form; fee;**  
7 **financial accounting.**

8

9 (a) An application for a permit shall be filed with  
10 the division, in a form as prescribed by council rules and  
11 regulations, and shall contain the following information:

12

13 (xx) For facilities permitted pursuant to W.S.  
14 35-12-102(a)(vii)(E), ~~or (F)~~ or (G), a site reclamation and  
15 decommissioning plan, which shall be updated every five (5)  
16 years, and a description of a financial assurance plan  
17 which will assure that all facilities will be properly  
18 reclaimed and decommissioned. All such plans, unless  
19 otherwise exempt, shall demonstrate compliance with any  
20 rules or regulations adopted by the council pursuant to  
21 W.S. 35-12-105(d) and (e);

22

1           (xxi) Information demonstrating the applicant's  
2 financial capability to decommission and reclaim the  
3 facility. For facilities meeting the definition of W.S.  
4 35-12-102(a)(vii)(E) or (G) the information shall also  
5 demonstrate the applicant's financial capability to  
6 construct, maintain and operate the facility;

7

8           (xxii) For proposed facilities meeting the  
9 requirements of W.S. 35-12-102(a)(vii)(E), ~~or (F)~~, or (G):

10

11           (A) A list of all affected landowners with  
12 an address at which each affected landowner can be given  
13 the notices required by this act; ~~and~~ and

14

15           (B) Any information necessary for the  
16 council to make the determination required by W.S.  
17 35-12-113(a)(v).

18

19           **35-12-110. Service of notice of application;**  
20 **information and recommendations; application deficiencies;**  
21 **procedure; jurisdiction; hearing.**

22

1           (a) Not more than ten (10) days following receipt of  
2 an application for a permit, the director shall:

3

4           (i) Serve an electronic or physical copy of the  
5 application upon the governing bodies of local governments  
6 which will be primarily affected by the proposed facility  
7 together with notice of the applicable provisions of W.S.  
8 35-12-111 and, for proposed facilities meeting the  
9 requirements of W.S. 35-12-102(a)(vii)(E), ~~or (F)~~ or (G),  
10 serve a copy of the application with notice of the  
11 applicable provisions of W.S. 35-12-111 upon affected  
12 landowners;

13

14           (f) Not more than ninety (90) days after receipt of  
15 an application for a permit, the director shall:

16

17           (ii) Notify the applicant and local governments  
18 of the hearing and, for proposed facilities meeting the  
19 requirements of W.S. 35-12-102(a)(vii)(E), ~~or (F)~~ or (G),  
20 notify affected landowners;

21

22           (g) For proposed facilities meeting the requirements  
23 of W.S. 35-12-102(a)(vii)(E), ~~or (F)~~ or (G):

1

2           **35-12-113. Decision of council; findings necessary**  
3 **for permit conditions imposed; service of decision on**  
4 **parties; waste management surcharge.**

5

6           (a) Within forty-five (45) days from the date of  
7 completion of the hearing the council shall make complete  
8 findings, issue an opinion and render a decision upon the  
9 record, either granting or denying the application as  
10 filed, or granting it upon terms, conditions or  
11 modifications of the construction, operation or maintenance  
12 of the facility as the council deems appropriate. The  
13 council shall not consider the imposition of conditions  
14 which address impacts within the area of jurisdiction of  
15 any other regulatory agency in this state as described in  
16 the information provided in W.S. 35-12-110(b), unless the  
17 other regulatory agency requests that conditions be  
18 imposed. In considering the imposition of conditions  
19 requested by other agencies upon private lands, the council  
20 shall consider in the same manner and to the same extent  
21 any comments presented by an affected landowner. The  
22 council may consider direct or cumulative impacts not  
23 within the area of jurisdiction of another regulatory

1 agency in this state. The council shall grant a permit  
2 either as proposed or as modified by the council if it  
3 finds and determines that:

4

5 (iii) The facility will not substantially impair  
6 the health, safety or welfare of the inhabitants;~~and~~

7

8 (iv) The applicant has financial resources to  
9 decommission and reclaim the facility. For facilities  
10 meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G)  
11 the council shall also be required to find the applicant  
12 has financial resources to construct, maintain and operate  
13 the facility;~~and~~ and

14

15 (v) For facilities meeting the definition of  
16 W.S. 35-12-102(a)(vii)(E), (F) or (G):

17

18 (A) The facility will not prevent or make  
19 uneconomic the development of a mineral resource in  
20 Wyoming;

21

22 (B) If a facility generating electricity  
23 from solar power and associated solar collector systems,



1 the facility on a brownfield site as defined in W.S.  
2 18-5-501(a)(v) will not be located within one hundred (100)  
3 feet of occupied structures if the height of any component  
4 of the facility exceeds ten (10) feet from the surface of  
5 the ground.

6

7       **Section 2.** The industrial siting council shall  
8 promulgate any rules necessary to implement the provisions  
9 of this act.

10

11       **Section 3.**

12

13       (a) Except as provided in subsection (b) of this  
14 section, this act is effective immediately upon completion  
15 of all acts necessary for a bill to become law as provided  
16 by Article 4, Section 8 of the Wyoming Constitution.

17

18       (b) Section 1 of this act is effective July 1, 2020.

19

20

(END)