

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) and (vi), 18-5-502(a), (b) and

1 by creating a new subsection (e), 18-5-503(a)(intro), (i)
2 through (iv), (vi), (vii), (ix) through (xi) and (b),
3 18-5-504(a), by creating a new paragraph (vii), by creating
4 a new subsection (c), by amending and renumbering (c) as
5 (d) and by creating a new subsection (e), 18-5-506,
6 18-5-507(a), 18-5-509(a) and (d), 18-5-511(a)(iv) and by
7 creating a new paragraph (vi), 18-5-512(a)(i), (ii) and
8 (c), 18-5-513(a), 34-22-102(a)(i)(intro) and by creating a
9 new subsection (b), 35-12-102(a)(vii)(E)(I), by creating
10 new subparagraphs (G) and (H), (xi), (xiv) and (xv),
11 35-12-105(d) through (f), 35-12-106 by creating a new
12 subsection (g), 35-12-107(b)(xiii) through (xv), (c)(i),
13 (d)(ii), (g)(ii), (h)(iii) and (j)(iv), 35-12-109(a)(xx)
14 through (xxii), 35-12-110(a)(i), (f)(ii) and (g)(intro) and
15 35-12-113(a)(iii), (iv) and by creating a new paragraph (v)
16 are amended to read:

17

18

ARTICLE 5

19

WIND AND SOLAR ENERGY FACILITIES

20

21 **18-5-501. Definitions.**

22

23 (a) As used in this article:

1

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

9

10 (iii) "Enlarge" or "enlargement" means adding
11 additional wind turbines ~~which are~~ or energy capacity that
12 is not permitted as part of an original permitting process.
13 "Enlarge" or "enlargement" shall not include an improvement
14 made to a permitting wind turbine that maintains the same
15 surface space occupied by the structure that was previously
16 permitted, regardless of the cost of the improvement;

17

18 (v) "Facility" includes:

19

20 (A) A wind energy facility or a solar
21 energy facility unless the context clearly indicates
22 otherwise;

23

1 (B) A wind energy facility or a solar
2 energy facility planned for construction and siting or
3 whose ownership or business structure is organized in a way
4 to circumvent the definition of "facility" or the
5 requirements of this article while engaging in conduct that
6 otherwise would be subject to the requirements of this
7 article. A facility that meets the definition of this
8 subparagraph shall comply with all requirements of this
9 article before locating, erecting, constructing,
10 reconstructing or enlarging the facility.

11
12 (vi) "Solar energy facility" means a commercial
13 facility with a rated power capacity of more than one-half
14 (0.5) megawatt of electricity from solar power that
15 includes all lands where the owner or developer has rights
16 to erect solar energy facilities, including lands for
17 battery storage.

18
19 **18-5-502. County regulation of wind or solar energy**
20 **projects; exceptions.**

21
22 (a) It is unlawful to locate, erect, construct,
23 reconstruct or enlarge a ~~wind energy~~ facility without first

1 obtaining a permit from the board of county commissioners
2 in the county in which the facility is located.

3

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

7

8 (e) No solar energy facility that has obtained final
9 county approval or that is constructed or being constructed
10 prior to July 1, 2020 shall be required to have the permit
11 required by this section. Any solar energy facility that is
12 not required to have a permit pursuant to this subsection
13 shall be required to obtain a permit for any enlargement of
14 the facility after July 1, 2020.

15

16 **18-5-503. Application.**

17

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

22

1 (i) Certify that reasonable efforts have been
2 undertaken to provide notice in writing to all owners of
3 land within one (1) mile of the proposed ~~wind-energy~~
4 facility, to the military installation commander or the
5 commander's designee if there are any active federal
6 military missile launch or control facilities within five
7 (5) miles of the proposed facility, to the department of
8 transportation and to all cities and towns located within
9 twenty (20) miles of the ~~wind-energy~~ facility. Notice
10 shall include a general description of the project
11 including its location, projected number and capacity of
12 turbines ~~and-or~~ solar energy facilities, the likely routes
13 of ingress and egress and the likely location of electric
14 transmission and other related facilities;

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

1

2 (iii) Certify that the proposed ~~wind—energy~~
3 facility will comply with all the standards required by
4 W.S. 18-5-504;

5

6 (iv) Certify that the proposed ~~wind—energy~~
7 facility will comply with all applicable zoning and county
8 land use regulations, which regulations shall be no less
9 stringent than the standards required by this article;

10

11 (vi) Provide a waste management plan that
12 includes an inventory of estimated solid wastes and a
13 proposed disposal program for the construction, operation
14 and eventual decommissioning of the proposed ~~wind—energy~~
15 facility;

16

17 (vii) Provide evidence sufficient for the board
18 of county commissioners to determine if the proposed ~~wind~~
19 ~~energy~~—facility has adequate legal access. The application
20 also shall describe how private roadways within the
21 facility will be marked as private roadways and shall
22 acknowledge that no county is required to repair, maintain
23 or accept any dedication of the private roadways to the

1 public use. The application also shall include a traffic
2 study of any public roadways leading to and away from the
3 proposed facility and the board of county commissioners and
4 department of transportation may require the applicant to
5 enter into a reasonable road use agreement for the use of
6 county roads or state highways prior to construction of the
7 facility;

8
9 (ix) Certify that there shall be no advertising
10 or promotional lettering on any solar energy facility,
11 tower, turbine, nacelle or blade beyond the manufacturer's
12 or the applicant's logo on the solar energy facility or the
13 nacelle of the turbine;

14
15 (x) Provide a site and facility reclamation and
16 decommissioning plan which indicates the planned life of
17 the ~~wind-energy~~ facility and the means by which the
18 facility and its site will be decommissioned and reclaimed
19 at the end of the facility's life and which certifies that
20 any owner of land within the ~~wind-energy~~ facility and its
21 site who is not the applicant has been consulted in
22 development of the reclamation and decommissioning plan.
23 Such plan shall comply with all requirements adopted by the

1 industrial siting council under W.S. 35-12-105(d). If the
2 permit is granted, the plan shall be updated every five (5)
3 years until site reclamation and decommissioning is
4 complete;

5
6 (xi) For wind energy facilities and solar energy
7 facilities not meeting the definition of ~~a~~an industrial
8 facility as defined in W.S. 35-12-102(a)(vii) (E) or (G),
9 provide a detailed summary of any significant adverse
10 environmental, social or economic effects that the proposed
11 ~~wind energy~~ facility may have together with any preliminary
12 plans developed to alleviate any of the adverse effects.

13
14 (b) A ~~wind energy~~ facility subject to this article
15 shall meet the requirements adopted pursuant to W.S.
16 35-12-105(d) and (e) regardless of whether the facility is
17 referred to the industrial siting council pursuant to W.S.
18 18-5-509 or is otherwise subject to the industrial siting
19 act.

20
21 **18-5-504. Minimum standards; incorporation into other**
22 **processes.**

23

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

3

4 (i) Does not comply with standards properly
5 adopted by the board of county commissioners for the
6 construction of wind energy facilities or solar energy
7 facilities, which standards shall not be less stringent
8 than the standards required by this article, except as
9 allowed by this section;

10

11 (ii) For wind energy facilities, would locate
12 the base of any tower at a distance of less than one
13 hundred ten percent (110%) of the maximum height of the
14 tower from any property line contiguous or adjacent to the
15 facility, unless waived in writing by the owner of every
16 property which would be located closer than the minimum
17 distance;

18

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

23

1 (iv) For wind energy facilities, would construct
2 any tower or other structure, other than underground
3 structures, transmission lines, roadways and structures
4 appurtenant to roadways, at a distance of less than five
5 and one-half (5.5) times the maximum height of the tower,
6 but in no event less than one thousand (1,000) feet from
7 any platted subdivision unless this restriction is waived
8 in writing by the owners of all lands included within the
9 distance specified in this paragraph;

10

11 (v) For wind energy facilities, would locate the
12 base of any tower at a distance of less than five and
13 one-half (5.5) times the maximum height of the tower, but
14 in no event less than one thousand (1,000) feet from a
15 residential dwelling or occupied structure, unless waived
16 in writing by the person holding title to the residential
17 dwelling or occupied structure;

18

19 (vi) For wind energy facilities, would locate
20 the base of any tower at a distance of less than one-half
21 (1/2) mile from the limits of any city or town~~i-~~

22

23 (vii) For solar energy facilities:

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(A) Would locate the facility within three hundred (300) feet of an occupied structure or residence unless waived in writing by the owner of the structure or residence;

(B) Would locate the facility within one hundred (100) feet of any outer boundary of the facility;

(C) Would locate the facility on unzoned or agricultural zoned land less than two hundred (200) feet from any public road right-of-way or on other land less than one hundred (100) feet from any public road right-of-way.

(c) Notwithstanding subsection (b) of this section, any board of county commissioners for solar facilities:

(i) May vary the location and setback requirements provided in subsection (a) of this section, either on its own or by following its land use planning, zoning or conditional use processes;

1 (ii) For lands within the boundaries of any
2 incorporated municipality, shall require any setbacks
3 recommended by the governing body of the municipality;

4
5 (iii) May increase setbacks required from public
6 road rights-of-way beyond those required in this section to
7 accommodate known big game animal migrations and frequent
8 local wildlife movements and to reduce the risk of motor
9 vehicle and big game animal collisions. A board of county
10 commissioners may consult with the:

11
12 (A) Game and fish department for setbacks
13 from public roads;

14
15 (B) Department of transportation for
16 setbacks from state highways;

17
18 (C) County's appropriate local entity for
19 setbacks from county roads.

20
21 ~~(e)~~(d) No board of county commissioners shall issue a
22 permit under W.S. 18-5-502(a) until that county has adopted
23 rules and regulations governing the notice that the

1 application for a permit must provide to the record owners
2 and claimants of mineral rights located on and under lands
3 where the ~~wind energy~~ facility will be constructed. The
4 rules shall conform to rules adopted by the industrial
5 siting council for the same purpose pursuant to W.S.
6 35-12-105.

7
8 (e) For a permit granted for a wind energy facility
9 under this article, there shall be no vertical construction
10 of a wind turbine within two (2) nautical miles of any
11 active federal military missile launch or control facility,
12 unless the owner or developer of the wind energy facility
13 first obtains and furnishes documentation to the board of
14 county commissioners of:

15
16 (i) A written determination of no adverse impact
17 on nuclear security operations from the military
18 installation commander or the commander's designee. The
19 determination shall not be unreasonably withheld or denied;

20
21 (ii) A determination of no hazard from the
22 federal aviation administration; and

23

1 (iii) Documentation from the federal military
2 aviation and installation assurance siting clearinghouse
3 that resolves any potential adverse impact on military
4 operations and readiness and that commits to implement
5 required mitigation measures.

6
7 **18-5-506. Hearing and public comment.**

8
9 Any board of county commissioners receiving an application
10 to permit a ~~wind-energy~~ facility shall hold a public
11 hearing to consider public comment on the application no
12 less than forty-five (45) days and not more than sixty (60)
13 days after determining that the application is complete.
14 Written comment on the application shall be accepted by the
15 board of county commissioners for not less than forty-five
16 (45) days after determining that the application is
17 complete.

18
19 **18-5-507. Decision of the board; findings necessary.**

20
21 (a) Within forty-five (45) days from the date of
22 completion of the hearing required by W.S. 18-5-506, the
23 board shall make complete findings, issue an opinion,

1 render a decision upon the record either granting or
2 denying the application and state whether or not the
3 applicant has met the standards required by this article.
4 The decision shall be subject to the remedies provided in
5 W.S. 18-5-508. The board shall grant a permit if it
6 determines that the proposed ~~wind energy~~ facility complies
7 with all standards properly adopted by the board of county
8 commissioners and the standards required by this article.

9

10 **18-5-509. Referral.**

11

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

1 county board of commissioners does not have the expertise
2 to consider or authority to address.

3

4 (d) A referral made pursuant to this section shall
5 not relieve a board of county commissioners from its
6 obligation to consider whether the proposed ~~wind—energy~~
7 facility should be permitted under the standards required
8 by this article.

9

10 **18-5-511. Revocation or suspension of permit.**

11

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

13

14 (iv) Failure of the proposed ~~wind—energy~~
15 facility to receive a required permit from the industrial
16 siting council pursuant to the Industrial Development
17 Information and Siting Act, W.S. 35-12-101 through
18 35-12-119; ~~or~~

19

20 (vi) Failure of the permitted solar energy
21 facility to maintain land rights necessary to operate the
22 solar energy facility.

23

1 **18-5-512. Penalties for violations.**

2

3 (a) No person shall:

4

5 (i) Commence to construct a wind energy facility
6 on or after July 1, 2010 or a solar energy facility on or
7 after July 1, 2020 without first obtaining a permit
8 required by this article;

9

10 (ii) Construct, reconstruct, operate, locate,
11 erect, maintain, enlarge, change or use a ~~wind energy~~
12 facility, after having first obtained a permit, other than
13 in specific compliance with the permit; or

14

15 (c) Any wind turbine tower, ~~or~~ wind generator or
16 portion thereof or any solar energy panel or facility or
17 portion thereof erected in violation of this article shall
18 subject the owner of the tower, ~~or~~ generator or solar
19 energy panel or facility to a penalty of seven hundred
20 fifty dollars (\$750.00) per day for every tower, ~~or~~
21 generator or solar energy panel or facility so erected.

22

23 **18-5-513. Fees.**

1

2 (a) A board of county commissioners which receives an
3 application under this article for the permitting of a ~~wind~~
4 ~~energy~~ facility may charge the applicant a reasonable fee
5 which shall not exceed the reasonably anticipated costs of
6 processing and considering the application and conducting
7 public hearings.

8

9 **34-22-102. Definitions.**

10

11 (a) As used in this act:

12

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

18

19 (b) For purposes of this act, "solar collector" shall
20 not include a solar collector that is part of a facility
21 that:

22

1 (i) Has a rated power capacity of more than five
2 hundred (500) kilowatts; or

3
4 (ii) Would result in a surface disturbance equal
5 to or greater than one hundred (100) acres.

6
7 **35-12-102. Definitions.**

8
9 (a) As used in this chapter:

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

23

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; or

19
20 (III) Is expanded to where the
21 facility would satisfy subdivision (I) or (II) of this
22 subparagraph.

23

1 (H) Any facility that would meet the
2 definition of subparagraphs (E) or (G) of this paragraph
3 but is planned for construction and siting or has its
4 ownership or business structure organized in a way to
5 circumvent the definition of "industrial facility" or
6 "facility" or the requirements of this chapter while
7 engaging in conduct that otherwise would be subject to the
8 requirements of this article. A facility that meets the
9 definition of this chapter shall comply with all
10 requirements applicable to facilities defined by
11 subparagraphs (E) and (G) of this paragraph.

12

13 (xi) "Person" includes an individual, group,
14 firm, partnership, corporation, cooperative, association,
15 or other entity excluding the state, federal government and
16 local government. "Person" also includes the parent
17 company, partnership or holding entity for a commercial
18 facility generating electricity from wind or solar;

19

20 (xiv) "Collector system" means the electrical
21 transmission infrastructure, including conductors, towers,
22 substations, switchgear and other components necessary to
23 deliver power from any commercial facility generating

1 electricity from wind or solar up to, but not including,
2 electric substations or similar facilities necessary to
3 interconnect to existing or proposed transmission lines
4 that serve load or export energy from Wyoming;

5
6 (xv) "Affected landowner" means any person
7 holding record title to land on which any portion of a
8 commercial facility generating electricity from wind or
9 solar is proposed to be constructed and including any
10 portion of any collector system located on those same
11 lands. For purposes of this chapter, an affected landowner
12 may be represented by any designated person.

13

14 **35-12-105. Appointment and duties of administrator;**
15 **staff; rules and regulations.**

16

17 (d) In addition to the rules and regulations adopted
18 under subsection (b) of this section, the council shall
19 promulgate rules and regulations prescribing
20 decommissioning and site reclamation standards for
21 facilities permitted under W.S. 35-12-102(a)(vii)(E), and
22 (F) and (G). Such standards shall preempt county rules or
23 regulations concerning decommissioning and reclamation and

1 shall be designed to assure the proper decommissioning and
2 interim and final site reclamation of commercial facilities
3 generating electricity from wind or solar and wind energy
4 and solar energy facilities during construction and
5 operation of the facility, at the end of their useful life,
6 upon revocation of a permit authorizing their operation or
7 upon the happening of any event which causes operations to
8 cease. The council's regulation shall only preempt those
9 facilities regulated under this act. In the event of any
10 conflict between a standard applied under this subsection
11 and a valid order of the Wyoming public service commission,
12 the order of the public service commission shall be
13 applied.

14

15 (e) In addition to the rules and regulations adopted
16 under subsection (b) of this section, the council shall
17 promulgate rules and regulations prescribing financial
18 assurance requirements for facilities permitted by it
19 pursuant to W.S. 35-12-102(a)(vii)(E), ~~and~~ (F) and (G).

20 These rules and regulations shall not apply to facilities
21 that are public utilities and regulated by the Wyoming
22 public service commission. These rules and regulations
23 shall preempt county rules and regulations concerning

1 financial assurances and shall be designed to provide
2 adequate assurance that the permitted facilities will be
3 properly reclaimed and decommissioned at the end of their
4 useful life, upon revocation of a permit authorizing their
5 operation or upon the happening of any event which causes
6 operations to cease. The elements to consider when
7 establishing adequate levels of financial assurance shall
8 include credit worthiness, financial strength, credit
9 history, credit rating and any other factors that
10 reasonably bear upon the decision to accept a financial
11 assurance. The financial assurance may be in any form
12 acceptable to the council and may include a corporate
13 guarantee, letter of credit, bond, deposit account or
14 insurance policy.

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

1

2 35-12-106. Permit from council required before
3 commencing construction of facility; electronic permitting;
4 amendments; exceptions; federal requirements.

5

6 (g) For a permit issued for a facility meeting the
7 definition of W.S. 35-12-102(a)(vii)(E), there shall be no
8 vertical construction of a wind turbine within two (2)
9 nautical miles of any active federal military missile
10 launch or control facility, unless the owner or developer
11 of the facility first obtains and furnishes documentation
12 to the division of:

13

14 (i) A written determination of no adverse impact
15 on nuclear security operations from the military
16 installation commander or the commander's designee. The
17 determination shall not be unreasonably withheld or denied;

18

19 (ii) A determination of no hazard from the
20 federal aviation administration; and

21

22 (iii) Documentation from the federal military
23 aviation and installation assurance siting clearinghouse

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

4

5 **35-12-107. Request for waiver of permit application;**
6 **form.**

7

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

11

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

21

22 (xiv) Information demonstrating the applicant's
23 financial capability to decommission and reclaim the

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

5
6 (xv) For proposed facilities meeting the
7 requirements of W.S. 35-12-102(a)(vii)(E) ~~or (F)~~ or (G), a
8 list of all affected landowners with an address at which
9 each affected landowner can be given the notices required
10 by this act.

11
12 (c) Not more than seven (7) days following receipt of
13 a request for a waiver, the director shall:

14
15 (i) Serve notice of the request upon the
16 governing bodies of local governments which will be
17 primarily affected by the proposed facility and, for
18 proposed facilities meeting the requirements of W.S.
19 35-12-102(a)(vii)(E) ~~or (F)~~ or (G), upon affected
20 landowners;

21
22 (d) Not more than fourteen (14) days following
23 receipt of a request, the director shall:

1

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

6

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

9

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

14

15 (h) The applicant shall present any evidence
16 necessary to demonstrate to the council:

17

18 (iii) That the applicant has financial resources
19 to decommission and reclaim the facility. For facilities
20 meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G)
21 the evidence shall also demonstrate the applicant's
22 financial capability to construct, maintain and operate the
23 facility.

1

2 (j) Within ten (10) days from the date of completion
3 of the hearing the council shall make complete findings,
4 issue an opinion and render a decision upon the record,
5 either granting or denying the request for a waiver. The
6 council shall grant a request for a waiver either as
7 proposed or as modified by the council if it finds and
8 determines that:

9

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

16

17 **35-12-109. Application for permit; form; fee;**
18 **financial accounting.**

19

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

23

1 (xx) 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
5 which will assure that all facilities will be properly
6 reclaimed and decommissioned. All such plans, unless
7 otherwise exempt, shall demonstrate compliance with any
8 rules or regulations adopted by the council pursuant to
9 W.S. 35-12-105(d) and (e);

10

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

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

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

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

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

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

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

3

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

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

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

15

16 (a) Within forty-five (45) days from the date of
17 completion of the hearing the council shall make complete
18 findings, issue an opinion and render a decision upon the
19 record, either granting or denying the application as
20 filed, or granting it upon terms, conditions or
21 modifications of the construction, operation or maintenance
22 of the facility as the council deems appropriate. The
23 council shall not consider the imposition of conditions

1 which address impacts within the area of jurisdiction of
2 any other regulatory agency in this state as described in
3 the information provided in W.S. 35-12-110(b), unless the
4 other regulatory agency requests that conditions be
5 imposed. In considering the imposition of conditions
6 requested by other agencies upon private lands, the council
7 shall consider in the same manner and to the same extent
8 any comments presented by an affected landowner. The
9 council may consider direct or cumulative impacts not
10 within the area of jurisdiction of another regulatory
11 agency in this state. The council shall grant a permit
12 either as proposed or as modified by the council if it
13 finds and determines that:

14

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

17

18 (iv) The applicant has financial resources to
19 decommission and reclaim the facility. For facilities
20 meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G)
21 the council shall also be required to find the applicant
22 has financial resources to construct, maintain and operate
23 the facility; ~~and~~ and

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(v) For facilities meeting the definition of W.S. 35-12-102(a)(vii)(E), (F) or (G), the facility will not prevent or make uneconomic the development of a known and economically developable mineral resource in Wyoming.

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

Section 3.

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

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

(END)