

## Substitute No. 1

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 creating  
15 new paragraphs (v) and (vi), 18-5-502(a), (b) and by creating

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

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17

## ARTICLE 5

18

## WIND AND SOLAR ENERGY FACILITIES

19

20 **18-5-501. Definitions.**

21

22 (a) As used in this article:

23

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

16  
17           (vi) "Solar energy facility" means a commercial  
18 facility with a rated power capacity of more than one-half  
19 (0.5) megawatt of electricity from solar power that includes  
20 all contiguous lands where the owner or developer has rights  
21 to erect solar energy facilities, including lands for battery  
22 storage.

23

1           **18-5-502. County regulation of wind or solar energy**  
2 **projects; exceptions.**

3  
4           (a) It is unlawful to locate, erect, construct,  
5 reconstruct or enlarge a ~~wind energy~~ facility without first  
6 obtaining a permit from the board of county commissioners in  
7 the county in which the facility is located.

8  
9           (b) If a ~~wind energy~~ facility is to be located in two  
10 (2) or more counties, a permit shall be obtained in each  
11 county in which the ~~wind energy~~ facility is to be located.

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

20  
21           **18-5-503. Application.**  
22

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

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

18  
19           (ii) Certify that notice of the proposed ~~wind~~  
20 ~~energy~~ facility will be published in a newspaper of general  
21 circulation in all counties in which the facility will be  
22 located at least twenty (20) days prior to the public hearing  
23 required by W.S. 18-5-506. The notice shall include a brief

1 summary of the ~~wind energy~~ facility, invite the public to  
2 submit comments and identify the time and date of the hearing;

3

4 (iii) Certify that the proposed ~~wind energy~~  
5 facility will comply with all the standards required by W.S.  
6 18-5-504;

7

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

12

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

17

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

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

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

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

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

4  
5 (xi) For wind energy facilities and solar energy  
6 facilities not meeting the definition of ~~a~~an industrial  
7 facility as defined in W.S. 35-12-102(a)(vii) (E) or (G),  
8 provide a detailed summary of any significant adverse  
9 environmental, social or economic effects that the proposed  
10 ~~wind energy~~ facility may have together with any preliminary  
11 plans developed to alleviate any of the adverse effects.

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

19  
20 **18-5-504. Minimum standards; incorporation into other**  
21 **processes.**

22



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 than  
8 the standards required by this article, except as allowed by  
9 this section;

10  
11 (ii) For wind energy facilities, would locate the  
12 base of any tower at a distance of less than one hundred ten  
13 percent (110%) of the maximum height of the tower from any  
14 property line contiguous or adjacent to the facility, unless  
15 waived in writing by the owner of every property which would  
16 be located closer than the minimum distance;

17  
18 (iii) For wind energy facilities, would locate the  
19 base of any tower at a distance of less than one hundred ten  
20 percent (110%) of the maximum height of the tower from any  
21 public road right-of-way;

22

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 and  
5 one-half (5.5) times the maximum height of the tower, but in  
6 no event less than one thousand (1,000) feet from any platted  
7 subdivision unless this restriction is waived in writing by  
8 the owners of all lands included within the distance specified  
9 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 one-half  
13 (5.5) times the maximum height of the tower, but in no event  
14 less than one thousand (1,000) feet from a residential  
15 dwelling or occupied structure, unless waived in writing by  
16 the person holding title to the residential dwelling or  
17 occupied structure;

18

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

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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.

(viii) Fails to obtain the determinations and documentation required under W.S. 35-12-106(g).

(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

1 or by following its land use planning, zoning or conditional  
2 use processes;

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

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

14  
15 (A) Game and fish department for setbacks  
16 from public roads;

17  
18 (B) Department of transportation for  
19 setbacks from state highways;

20  
21 (C) County's appropriate local entity for  
22 setbacks from county roads.

23

1        ~~(e)~~(d) No board of county commissioners shall issue a  
2 permit under W.S. 18-5-502(a) until that county has adopted  
3 rules and regulations governing the notice that the  
4 application for a permit must provide to the record owners  
5 and claimants of mineral rights located on and under lands  
6 where the ~~wind energy~~ facility will be constructed. The rules  
7 shall conform to rules adopted by the industrial siting  
8 council for the same purpose pursuant to W.S. 35-12-105.

9

10            **18-5-506. Hearing and public comment.**

11

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

20

21            **18-5-507. Decision of the board; findings necessary.**

22

1           (a) Within forty-five (45) days from the date of  
2 completion of the hearing required by W.S. 18-5-506, the board  
3 shall make complete findings, issue an opinion, render a  
4 decision upon the record either granting or denying the  
5 application and state whether or not the applicant has met  
6 the standards required by this article. The decision shall be  
7 subject to the remedies provided in W.S. 18-5-508. The board  
8 shall grant a permit if it determines that the proposed ~~wind~~  
9 ~~energy~~-facility complies with all standards properly adopted  
10 by the board of county commissioners and the standards  
11 required by this article.

12

13           **18-5-509. Referral.**

14

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

1 made only when a board of county commissioners finds there  
2 are potentially significant adverse environmental, social or  
3 economic issues which the county board of commissioners does  
4 not have the expertise to consider or authority to address.

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

10  
11 **18-5-511. Revocation or suspension of permit.**

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

14  
15 (iv) Failure of the proposed ~~wind energy~~ facility  
16 to receive a required permit from the industrial siting  
17 council pursuant to the Industrial Development Information  
18 and Siting Act, W.S. 35-12-101 through 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 required  
8 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 in  
13 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 energy  
19 panel or facility to a penalty of seven hundred fifty dollars  
20 (\$750.00) per day for every tower, ~~or~~ generator or solar  
21 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 that:

21

22 (i) Has a rated power capacity of more than forty  
23 (40) megawatts; or

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**35-12-102. Definitions.**

6

7

(a) As used in this chapter:

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9

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

20

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22

23

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

1 (I) Consists of ~~thirty (30)~~ twenty (20)  
2 or more wind turbines in all planned phases of the  
3 installation; or

4  
5 (G) Any commercial facility generating  
6 electricity from solar power and associated solar collector  
7 systems if the facility:

8  
9 (I) Has a rated power capacity of more  
10 than thirty (30) megawatts;

11  
12 (II) Would result in a surface  
13 disturbance equal to or greater than one hundred (100) acres;  
14 or

15  
16 (III) Is expanded to where the facility  
17 would satisfy subdivision (I) or (II) of this subparagraph.

18  
19 (xi) "Person" includes an individual, group, firm,  
20 partnership, corporation, cooperative, association, or other  
21 entity excluding the state, federal government and local  
22 government. "Person" also includes the parent company,

1 partnership or holding entity for a commercial facility  
2 generating electricity from wind or solar;

3

4 (xiv) "Collector system" means the electrical  
5 transmission infrastructure, including conductors, towers,  
6 substations, switchgear and other components necessary to  
7 deliver power from any commercial facility generating  
8 electricity from wind or solar up to, but not including,  
9 electric substations or similar facilities necessary to  
10 interconnect to existing or proposed transmission lines that  
11 serve load or export energy from Wyoming;

12

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

20

21 **35-12-105. Appointment and duties of administrator;**  
22 **staff; rules and regulations.**

23

1           (d) In addition to the rules and regulations adopted  
2 under subsection (b) of this section, the council shall  
3 promulgate rules and regulations prescribing decommissioning  
4 and site reclamation standards for facilities permitted under  
5 W.S. 35-12-102(a)(vii)(E), ~~and~~ (F) and (G). Such standards  
6 shall preempt county rules or regulations concerning  
7 decommissioning and reclamation and shall be designed to  
8 assure the proper decommissioning and interim and final site  
9 reclamation of commercial facilities generating electricity  
10 from wind or solar and wind energy and solar energy facilities  
11 during construction and operation of the facility, at the end  
12 of their useful life, upon revocation of a permit authorizing  
13 their operation or upon the happening of any event which  
14 causes operations to cease. The council's regulation shall  
15 only preempt those facilities regulated under this act. In  
16 the event of any conflict between a standard applied under  
17 this subsection and a valid order of the Wyoming public  
18 service commission, the order of the public service  
19 commission shall be applied.

20

21           (e) In addition to the rules and regulations adopted  
22 under subsection (b) of this section, the council shall  
23 promulgate rules and regulations prescribing financial

1 assurance requirements for facilities permitted by it  
2 pursuant to W.S. 35-12-102(a)(vii)(E), ~~and~~ (F) and (G). These  
3 rules and regulations shall not apply to facilities that are  
4 public utilities and regulated by the Wyoming public service  
5 commission. These rules and regulations shall preempt county  
6 rules and regulations concerning financial assurances and  
7 shall be designed to provide adequate assurance that the  
8 permitted facilities will be properly reclaimed and  
9 decommissioned at the end of their useful life, upon  
10 revocation of a permit authorizing their operation or upon  
11 the happening of any event which causes operations to cease.  
12 The elements to consider when establishing adequate levels of  
13 financial assurance shall include credit worthiness,  
14 financial strength, credit history, credit rating and any  
15 other factors that reasonably bear upon the decision to accept  
16 a financial assurance. The financial assurance may be in any  
17 form acceptable to the council and may include a corporate  
18 guarantee, letter of credit, bond, deposit account or  
19 insurance policy.

20

21 (f) In addition to the rules and regulations adopted  
22 under subsection (b) of this section, the council shall  
23 promulgate rules and regulations requiring applicants for

1 facilities described in W.S. 35-12-102(a)(vii)(E), ~~and~~ (F)  
2 and (G) to provide notice to record owners of mineral rights  
3 located on or under the lands where the proposed facility  
4 will be constructed. Such notice may include notice by  
5 publication.

6  
7 **35-12-106. Permit from council required before**  
8 **commencing construction of facility; electronic permitting;**  
9 **amendments; exceptions; federal requirements.**

10  
11 (g) No permit shall be issued under this chapter or  
12 W.S. 18-5-501 through 18-5-513 for any vertical construction  
13 of a wind turbine within two (2) nautical miles of any active  
14 federal military missile launch or control facility, unless  
15 the owner or developer of the wind energy facility first  
16 obtains and furnishes proof to the council of:

17  
18 (i) A written determination of no adverse impact  
19 on nuclear security operations from the military installation  
20 commander or the commander's designee;

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

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

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

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

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



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

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

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

22

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

3

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

8

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

11

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

16

17           (h) The applicant shall present any evidence necessary  
18 to demonstrate to the council:

19

20           (iii) That the applicant has financial resources  
21 to decommission and reclaim the facility. For facilities  
22 meeting the definition of W.S. 35-12-102(a)(vii)(E) or (G)

1 the evidence shall also demonstrate the applicant's financial  
2 capability to construct, maintain and operate the facility.

3

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

10

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

17

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

20

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

1

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

20

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

1

2

3

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

4

5

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

8

9

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

11

12

(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;

20

21

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

23

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

5

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

8

9           **35-12-113. Decision of council; findings necessary for**  
10 **permit conditions imposed; service of decision on parties;**  
11 **waste management surcharge.**

12

13           (a) Within forty-five (45) days from the date of  
14 completion of the hearing the council shall make complete  
15 findings, issue an opinion and render a decision upon the  
16 record, either granting or denying the application as filed,  
17 or granting it upon terms, conditions or modifications of the  
18 construction, operation or maintenance of the facility as the  
19 council deems appropriate. The council shall not consider the  
20 imposition of conditions which address impacts within the  
21 area of jurisdiction of any other regulatory agency in this  
22 state as described in the information provided in W.S.  
23 35-12-110(b), unless the other regulatory agency requests

1 that conditions be imposed. In considering the imposition of  
2 conditions requested by other agencies upon private lands,  
3 the council shall consider in the same manner and to the same  
4 extent any comments presented by an affected landowner. The  
5 council may consider direct or cumulative impacts not within  
6 the area of jurisdiction of another regulatory agency in this  
7 state. The council shall grant a permit either as proposed or  
8 as modified by the council if it finds and determines that:

9  
10 (iii) The facility will not substantially impair  
11 the health, safety or welfare of the inhabitants; ~~and~~

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

19  
20 (v) For facilities meeting the definition of W.S.  
21 35-12-102(a)(vii)(E), (F) or (G), the facility will not  
22 prevent or make uneconomic the development of a known and  
23 economically developable mineral resource in Wyoming.

1

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

5

6           **Section 3.**

7

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

12

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

14

15

(END)