

HOUSE BILL NO. HB0306

Wind Energy Act.

Sponsored by: Representative(s) Carson, Byrd, Gilmore, Hales, Jaggi, Miller, Moniz, Roscoe and Zwonitzer, Dn. and Senator(s) Decaria

A BILL

for

1 AN ACT relating to wind energy; providing definitions;  
2 providing applicability; providing standards for wind  
3 energy systems as specified; providing rulemaking  
4 authority; requiring the approval of a site plan and a wind  
5 energy permit as specified prior to construction of certain  
6 wind energy systems; requiring removal of wind energy  
7 systems as specified; providing a penalty; and providing  
8 for effective dates.

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

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12 **Section 1.** W.S. 35-12-201 through 35-12-206 are  
13 created to read:

14

15

ARTICLE 2

16

WIND ENERGY ACT

1

2           **35-12-201. Wind Energy Act; short title.**

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4 This act shall be known and may be cited as the "Wind  
5 Energy Act".

6

7           **35-12-202. Applicability.**

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9           (a) The provisions of this article shall apply to  
10 large wind energy systems and wind farms. This article  
11 shall not apply to small wind energy systems or to  
12 meteorological towers.

13

14           (b) Except for W.S. 35-12-205, the provisions of this  
15 article shall not apply to the construction of large wind  
16 energy systems or wind farms that have commenced  
17 construction prior to the effective date of this article.

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19           **35-12-203. Standards for wind energy systems.**

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21           (a) The council, in consultation with the director  
22 and the administrator shall adopt rules and regulations  
23 consistent with this chapter for the construction of large  
24 wind energy systems, the review of site plans and

1 applications for wind energy permits. The rules and  
2 regulations shall include the following:

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4 (i) That the wind tower for any large horizontal  
5 wind energy system shall be of monopole construction unless  
6 otherwise approved by the council. The council may approve  
7 other construction for a wind tower if monopole  
8 construction is not practicable or if the council  
9 determines that a different construction method would be  
10 more appropriate;

11

12 (ii) Appropriate locations for large wind energy  
13 systems and wind farms. The regulations shall provide that  
14 wind energy systems and wind farms shall not be located in  
15 residential areas;

16

17 (iii) Setbacks from the property line of a  
18 nonparticipating property, provided that the center of the  
19 base of a wind tower shall be at least a distance equal to  
20 the total height of the wind energy system away from the  
21 property line of a nonparticipating property or any  
22 occupied structure on participating structure;

23

1           (iv) The total height and lighting requirements  
2 for a wind energy system including that the height and  
3 lighting of a wind energy system shall comply with  
4 applicable local, state and federal aviation guidelines;

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6           (v) Permissible ground clearance, provided that  
7 the ground clearance for the blade of a wind energy system  
8 at its lowest point shall not be less than twenty-five (25)  
9 feet;

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11           (vi) That a wind tower and any climbing aids  
12 shall be secured from unauthorized access;

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14           (vii) That electrical wires shall be located  
15 underground when practical;

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17           (viii) Requirements that wind energy systems  
18 shall comply with applicable building and electrical codes  
19 as determined by the council;

20

21           (ix) Provisions that prohibit the use of wind  
22 energy systems, wind towers or any associated structure for  
23 advertising and that prohibit the display of any word or  
24 graphic representation except for appropriate warning signs

1 or for the identification of the wind energy system or any  
2 owner, participating property owner or manufacturer of the  
3 wind energy system;

4

5 (x) Permissible noise as measured from the  
6 boundary line of a nonparticipating property, provided that  
7 an owner of nonparticipating property may agree in writing  
8 to allow noise levels that exceed the permissible noise  
9 level determined by the council;

10

11 (xi) Reclamation requirements for property where  
12 a large wind energy system or wind farm is located;

13

14 (xii) Requirements for the mitigation of the  
15 impact to public and private roads used in transporting  
16 parts, materials and equipment for the construction of the  
17 wind energy systems or wind farms;

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19 (xiii) Requirements that the owner of a large  
20 wind energy system shall obtain liability insurance to  
21 cover loss or damage caused by failure of the wind energy  
22 system;

23

1           (xiv) A permit fee system and schedule of fees  
2 adequate to cover all reasonable direct and indirect costs  
3 of reviewing and acting upon site plans and wind energy  
4 permits.

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6           **35-12-204. Site plan; wind energy permit.**

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8           (a) Prior to construction, each large wind energy  
9 system or wind farm in this state shall have an approved  
10 site plan and a wind energy permit as provided in this  
11 section.

12

13           (b) An applicant for a wind energy permit shall  
14 submit a site plan to the council. The site plan shall be  
15 made in a manner and on a form as prescribed by the  
16 council. The site plan shall include, without limitation:

17

18           (i) The name, mailing address and telephone  
19 number of the person signing the application and a  
20 certification that the application and statements and  
21 provisions contained therein are true;

22

23           (ii) The name, mailing address and telephone  
24 number of each owner;

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2 (iii) The name, mailing address and telephone  
3 number of each owner of participating property or proposed  
4 participating property;

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6 (iv) Any fees required by the council including  
7 any impact costs to local communities;

8

9 (v) A legal description of the participating  
10 property or proposed participating property;

11

12 (vi) A general description of the proposed wind  
13 energy system or wind farm including information that will  
14 allow the council to determine if the proposed wind energy  
15 system or wind farm will comply with the rules and  
16 regulations adopted by the council under W.S. 35-12-203;  
17 and

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19 (vii) The location of:

20

21 (A) Existing above ground utility lines,  
22 roads and easements on the property;

23

1                   (B) Any existing building or structure on  
2 or within one-quarter (1/4) mile of the property including  
3 any hospital, public library, residence, school or other  
4 structure designated for public assembly;

5

6                   (C) Each cultural or sensitive natural  
7 resource including, without limitation, any historical  
8 structure, trail, archaeological site, wetland, migratory  
9 flight path, endangered wildlife and endangered vegetation.

10

11           (c) Not more than sixty (60) days after the council  
12 determines that a site plan is complete, the council shall  
13 hold a public hearing on the site plan. The council shall  
14 approve the site plan if it meets the requirements of this  
15 article and the rules and regulations established by the  
16 council. The council may approve the site plan with  
17 conditions or additional requirements necessary for the  
18 site plan to comply with the requirements of this article  
19 and any rules and regulations adopted by the council.

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21           (d) Not more than three (3) years after the site plan  
22 is approved pursuant to subsection (c) of this section, the  
23 owner of the wind energy system shall apply to the  
24 administrator for a wind energy permit. The owner may



1 apply for a single wind energy permit if multiple wind  
2 energy systems will be operated as part of a wind farm, and  
3 a permit may provide that a wind farm may be constructed in  
4 specific phases. If a wind farm is constructed in phases  
5 which will last longer than one (1) year, the owner shall  
6 apply to renew the permit each year. The application for a  
7 wind energy permit shall be made in a manner and on a form  
8 as prescribed by the council. The application shall  
9 include, without limitation:

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11 (i) The approved site plan;

12

13 (ii) Evidence that the wind energy system or  
14 wind farm is in compliance with any conditions or  
15 requirements of the approved site plan;

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17 (iii) Final construction documents;

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19 (iv) A specific site plan showing the location  
20 of all large wind energy system locations; and

21

22 (v) Any fees required by the council.

23

1           (e) The administrator may issue a wind energy permit  
2 if he determines that the application is in compliance with  
3 this section and any rules and regulations adopted by the  
4 council. Unless a large wind energy system is installed  
5 and functioning, a wind energy permit issued pursuant to  
6 this section expires one (1) year after the date it is  
7 issued, but may be renewed by the administrator if the  
8 owner submits an application to renew a permit in a manner  
9 and on a form as prescribed by the council.

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11           **35-12-205. Termination of operations; removal.**

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13           (a) The owner of a large wind energy system or wind  
14 farm shall provide written notice of termination of a large  
15 wind energy system or wind farm to the administrator not  
16 later than thirty (30) days after termination of  
17 operations.

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19           (b) If a large wind energy system or wind farm is not  
20 operated for a period of twelve (12) months, the  
21 administrator may issue a notice of abandonment to each  
22 owner and each owner of participating property. If, not  
23 later than thirty (30) days after the issuance of a notice  
24 of abandonment, the administrator receives written notice

1 that the wind energy system or wind farm has not been  
2 abandoned and will resume operations within six (6) months,  
3 the administrator shall withdraw the notice.

4

5 (c) A large wind energy system or wind farm shall be  
6 removed not later than:

7

8 (i) Twelve (12) months after the owner provides  
9 notice of termination under subsection (a) of this section;  
10 or

11

12 (ii) Six (6) months after the issuance of a  
13 notice of abandonment under subsection (b) of this section,  
14 unless the notice is withdrawn by the administrator.

15

16 (d) For a removal required under subsection (c) of  
17 this section, the owner shall:

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19 (i) Except for utility infrastructure which is  
20 still in use, remove all wind energy systems, above ground  
21 improvements and outdoor storage, unless otherwise agreed  
22 by the owner of the participating property;

23

1           (ii) Remove all foundations, pads and  
2 underground electrical wires, unless otherwise agreed by  
3 the owner of the participating property;

4

5           (iii) Remove any hazardous material and dispose  
6 of it in accordance with applicable state and federal laws;

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8           (iv) Restore any public and private roads which  
9 are damaged by the removal of a large wind energy system or  
10 wind farm; and

11

12           (v) Reclaim soils and vegetation located on the  
13 site to their original or better condition.

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15           **35-12-206. Enforcement.**

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17           (a) No person shall erect or construct a large wind  
18 energy system or wind farm in violation of this article or  
19 otherwise reconstruct or convert a building or structure to  
20 establish a large wind energy system or wind farm in  
21 violation of this article.

22

1 (b) No person shall fail or refuse to remove a large  
2 wind energy system or wind farm as provided in W.S.  
3 35-12-205.

4  
5 (c) Any person violating this section is guilty of a  
6 misdemeanor punishable by imprisonment for not more than  
7 sixty (60) days, a fine of not more than seven hundred  
8 fifty dollars (\$750.00), or both. Each day a violation  
9 continues shall constitute a separate offense.

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11 **Section 2.** W.S. 35-12-102 by creating a new  
12 subsection (b) is amended to read:

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14 **35-12-102. Definitions.**

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16 (b) Specific definitions applying to the Wind Energy  
17 Act:

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19 (i) "Horizontal wind energy system" means a wind  
20 energy system which has a rotor axis that is substantially  
21 parallel to the wind flow;

22

23 (ii) "Large wind energy system" means a wind  
24 energy system that has a certified capacity of more than

1 one hundred (100) kilowatts or is one hundred (100) feet or  
2 more in total height;

3

4 (iii) "Meteorological tower" means a tower used  
5 for the measurement of wind data;

6

7 (iv) "Nonparticipating property" means real  
8 property on which there is no large wind energy system or,  
9 as to adjacent property, property on which one (1) or more  
10 than one (1) large wind energy system is located but which  
11 is owned, operated and managed separately from a large wind  
12 energy system or wind farm sited on an adjacent property;

13

14 (v) "Participating property" means property on  
15 which a large wind energy system or wind farm is operated;

16

17 (vi) "Site plan" means documents, including a  
18 scale diagram, describing the purpose, scope and  
19 preliminary details of a proposed wind energy system or  
20 wind farm;

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22 (vii) "Small wind energy system" means a wind  
23 energy system that has a certified capacity of one hundred  
24 (100) kilowatts or less;

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(viii) "Total height" means the height of the wind tower or other support structure for a wind energy system and the highest vertical extension of the wind energy system as measured from ground level;

(ix) "Wind energy permit" means a document issued by the administrator that approves the construction of a large wind energy system;

(x) "Wind energy system" means equipment that converts and then stores or transfers energy from wind into any form of usable electrical energy and includes any base, blade, foundation, generator, nacelle, accessory building, rotor, tower, transformer, turbine, vane, wire or other accessory component. "Wind energy system" does not include a meteorological tower;

(xi) "Wind farm" means two (2) or more large wind energy systems under the same ownership, operational control or management and designed for the purpose of the sale, resale or off-site use of energy produced by the wind energy systems;

1           (xii) "Wind tower" means a free standing  
2 structure for the support of a wind energy system or  
3 components of a wind energy system.

4  
5           **Section 3.**

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7           (a) Except as otherwise provided in subsection (b) of  
8 this section, this act is effective July 1, 2009.

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10          (b) For the purpose of preparing administrative  
11 regulations, W.S. 35-11-2003 as created under section 1 of  
12 this act is effective immediately upon completion of all  
13 acts necessary for a bill to become law as provided by  
14 Article 4, Section 8 of the Wyoming Constitution.

15  
16                               (END)