

HOUSE BILL NO. HB0314

Decommissioning of wind turbines.

Sponsored by: Representative(s) Simpson

A BILL

for

1 AN ACT relating to commercial wind energy conversion
2 facilities; providing for the decommissioning of wind
3 turbines as specified; requiring performance bonds;
4 providing definitions; requiring the environmental quality
5 council to adopt rules; specifying when bonding
6 requirements shall be met; and providing for an effective
7 date.

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

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11 **Section 1.** W.S. 35-11-438 is created to read:

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13 **35-11-438. Commercial wind turbine conversion**
14 **facilities; authority and jurisdiction to decommission;**
15 **rules; definitions.**

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1 (a) The department has continuing authority for
2 decommissioning of commercial wind energy conversion
3 facilities. The department may:

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5 (i) Investigate all methods and practices of
6 commercial wind energy conversion facilities, subject to
7 the provisions of this section;

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9 (ii) Require the filing and determine the amount
10 of a bond or other assurance, conditioned upon compliance
11 with this article and the rules and orders of the council.
12 The department may accept under terms and conditions as the
13 council may prescribe, a surety bond, collateral bond,
14 escrow account or any other alternative form of security or
15 other financial assurance, or combination thereof, by which
16 an owner or operator assures faithful performance of all
17 requirements of this article and the rules of the council;
18 and

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20 (iii) Regulate the decommissioning of a
21 commercial wind energy conversion facility.

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23 (b) The owner and operator of a commercial wind
24 energy conversion facility shall, at his expense, complete

1 decommissioning of the commercial wind energy conversion
2 facility, or individual wind turbines, within twelve (12)
3 months after the end of the useful life of the commercial
4 wind energy conversion facility or individual wind
5 turbines. The commercial wind energy conversion facility
6 or individual wind turbine is presumed to be at the end of
7 its useful life if no electricity is generated for a
8 continuous period of twelve (12) months, unless a plan is
9 developed and submitted to the department outlining the
10 steps and schedules for returning the facility or turbine
11 to service.

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13 (c) Decommissioning of commercial wind energy
14 conversion facilities includes the removal of all physical
15 material pertaining to the wind energy conversion facility
16 to a depth of forty-eight (48) inches beneath the soil
17 surface and restoration of the disturbed area to
18 substantially the same physical condition that existed
19 immediately before construction.

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21 (d) Disturbed earth shall be graded and reseeded,
22 unless the landowner requests in writing that the access
23 roads or other land surface areas not be removed and

1 restored to substantially the same physical condition that
2 existed immediately before construction.

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4 (e) The department may require a performance bond to
5 provide for the decommissioning and removal of a commercial
6 wind energy conversion facility. The performance bond may
7 be in the form of a surety bond, collateral bond, cash or
8 any alternative form of security or other financial
9 assurance as prescribed by council rule. The department
10 shall consider the anticipated life of the project, the
11 estimated decommissioning costs in current dollars, the
12 method and schedule for updating the costs of
13 decommissioning and restoration, the method of ensuring
14 that funds will be available for decommissioning and
15 restoration, and the anticipated manner in which the
16 project will be decommissioned and the site restored when
17 adopting rules that detail the bond requirements and when
18 determining the amount of any required bond.

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20 (f) If the commercial wind energy conversion facility
21 owner or operator does not complete decommissioning, the
22 department may take action as necessary to complete
23 decommissioning, including requiring forfeiture of the
24 bond. The entry into a participating landowner agreement

1 constitutes agreement and consent of the parties to the
2 agreement, their respective heirs, successors and assigns,
3 that the department may take action that may be necessary
4 to implement the decommissioning plan, including the
5 exercise by the department, department staff and
6 contractors of the right of ingress and egress for the
7 purpose of decommissioning the commercial wind energy
8 conversion facility.

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10 (g) An easement or lease between a landowner and the
11 owner or operator of a commercial wind conversion facility
12 or wind turbine may contain provisions for decommissioning
13 that are more restrictive than the provisions of this
14 article.

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16 (h) As used in this section:

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18 (i) "Commercial wind energy conversion facility"
19 means a wind energy conversion facility of equal or greater
20 than one and one-half (1.5) kilowatts of total nameplate
21 generating capacity;

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1 (ii) "Wind turbine" means a wind turbine of
2 equal or greater than one and one-half (1.5) kilowatts of
3 total nameplate generating capacity.

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5 **Section 2.** The environmental quality council shall,
6 pursuant to W.S. 35-11-112(a)(i), promulgate rules and
7 regulations to implement the purposes of W.S. 35-11-438,
8 created by section 1 of this act.

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10 **Section 3.** The joint minerals, business and economic
11 development interim committee shall study the commercial
12 wind energy conversion industry during the 2009 interim.
13 The study shall examine the need for regulation of the
14 commercial wind energy conversion industry, including the
15 appropriate agency to regulate the industry, the extent of
16 industry regulation that may be necessary beyond
17 decommissioning of commercial wind energy conversion, and
18 whether such regulation of the industry should be funded as
19 provided for utilities under title 37 of the Wyoming
20 statutes, or by some other means. The joint minerals,
21 business and economic development interim committee shall
22 submit its report and any recommended legislation to the
23 governor and the legislature no later than December 1,
24 2009.

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2 **Section 4.** All commercial wind conversion facilities
3 in existence in the state on or prior to the effective date
4 of this act shall comply with the bonding requirements in
5 W.S. 37-16-302, created by this act, no later than July 1,
6 2010.

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8 **Section 5.** This act is effective July 1, 2009.

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(END)