

ENROLLED ACT NO. 78, SENATE

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to industrial siting for wind energy facilities; requiring the identification of specified landowners; giving specified landowners the right to notice and other participation rights; requiring the disclosure of specified industrial siting information; expanding the persons entitled to be parties to the industrial siting process; and providing for an effective date.

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

Section 1. W.S. 35-12-102(a) by creating a new paragraph (xv), 35-12-107(b) by creating new paragraph (xv), (c)(i), (d)(ii) and (g)(ii), 35-12-109(a) by creating new paragraph (xxii), 35-12-110(a)(i), (f)(ii) and by creating new subsection (g), 35-12-111(a)(iii) and 35-12-113(a)(intro) are amended to read:

35-12-102. Definitions.

(a) As used in this chapter:

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

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:

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

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

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

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

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

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

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

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

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

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

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 government 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), serve a copy of the application with notice of the applicable provisions of W.S. 35-12-111 upon affected landowners;

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

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

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

(i) The division shall request information and recommendations from affected landowners relative to the impact of the proposed facility as it applies to each affected landowner's lands and interests;

(ii) Not less than twenty-five (25) days prior to any scheduled hearing on the application, the director shall provide to all affected landowners a copy of all information received from agencies providing information under subsections (b) and (c) of this section; and

(iii) Agencies providing opinions and recommendations under subsections (b) and (c) of this section shall receive comments from affected landowners and shall provide a summary of all affected landowner comments with other information submitted. If comments are received after the agency's other information is submitted, the comments shall be forwarded when received to the division.

35-12-111. Parties to permit proceeding; waiver by failure to participate.

(a) The parties to a permit proceeding include:

(iii) Any person residing in a local government entitled to receive a copy of the application under W.S. 35-12-110(a)(i) including any person holding record title to lands directly affected by construction of the facility and any nonprofit organization with a Wyoming chapter, concerned in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial,

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agricultural and industrial groups, or to promote the orderly development of the areas in which the facility is to be located. In order to be a party the person or organization must file with the office a notice of intent to be a party not less than twenty (20) days before the date set for the hearing.

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

(a) Within forty-five (45) days from the date of completion of the hearing the council shall make complete findings, issue an opinion and render a decision upon the record, either granting or denying the application as filed, or granting it upon terms, conditions or modifications of the construction, operation or maintenance of the facility as the council deems appropriate. The council shall not consider the imposition of conditions which address impacts within the area of jurisdiction of any other regulatory agency in this state as described in the information provided in W.S. 35-12-110(b), unless the other regulatory agency requests that conditions be imposed. In considering the imposition of conditions requested by other agencies upon private lands, the council shall consider in the same manner and to the same extent any comments presented by an affected landowner. The council may consider direct or cumulative impacts not within the area of jurisdiction of another regulatory agency in this state. The council shall grant a permit either as proposed or as modified by the council if it finds and determines that:

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Section 2. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk