

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

AN ACT relating to regulation of solar and wind energy facilities; requiring permitting by boards of county commissioners of solar energy facilities; establishing minimum standards for solar and wind energy facilities; providing for referrals to the industrial siting council; amending the industrial siting council's jurisdiction over wind and solar energy facilities; specifying issues to consider in the permitting of solar and wind energy facilities; making conforming amendments; providing for rulemaking; and providing for effective dates.

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

**Section 1.** W.S. 18-5-501(a)(ii), (iii) and by creating new paragraphs (v) and (vi), 18-5-502(a), (b) and by creating a new subsection (e), 18-5-503(a)(intro), (i) through (iv), (vi), (vii), (ix) through (xi) and (b), 18-5-504(a), by creating a new subsection (c), by amending and renumbering (c) as (d) and by creating a new subsection (e), 18-5-506, 18-5-507(a), 18-5-509(a) and (d), 18-5-511(a)(iv) and by creating a new paragraph (vi), 18-5-512(a)(i), (ii) and (c), 18-5-513(a), 34-22-102(a)(i)(intro) and by creating a new subsection (b), 34-22-105(c), 35-12-102(a)(vii)(E)(I), by creating new subparagraphs (G) and (H), (xi), (xiv) and (xv), 35-12-105(d) through (f), 35-12-106 by creating a new subsection (g), 35-12-107(b)(xiii) through (xv), (c)(i), (d)(ii), (g)(ii), (h)(iii) and (j)(iv), 35-12-109(a)(xx) through (xxii), 35-12-110(a)(i), (f)(ii) and (g)(intro) and 35-12-113 by creating a new subsection (j) are amended to read:

ARTICLE 5

WIND AND SOLAR ENERGY FACILITIES

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

(a) As used in this article:

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

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

(v) "Facility" includes:

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

(B) A wind energy facility or a solar energy facility planned for construction and siting or whose ownership or business structure is organized in a way to circumvent the definition of "facility" or the requirements of this article while engaging in conduct that otherwise would be subject to the requirements of this article. A facility that meets the definition of this subparagraph shall comply with all requirements of this

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

article before locating, erecting, constructing, reconstructing or enlarging the facility.

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

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

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

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

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

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

(a) To obtain the permit required by W.S. 18-5-502, the owner or developer of a ~~wind energy~~ facility shall

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

submit an application to the board of county commissioners.  
The application shall:

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

(vii) Provide evidence sufficient for the board of county commissioners to determine if the proposed ~~wind energy~~ facility has adequate legal access. The application also shall describe how private roadways within the facility will be marked as private roadways and shall acknowledge that no county is required to repair, maintain or accept any dedication of the private roadways to the public use. The application also shall include a traffic study of any public roadways leading to and away from the proposed facility and the board of county commissioners and department of transportation may require the applicant to enter into a reasonable road use agreement for the use of county roads or state highways prior to construction of the facility;

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

(x) Provide a site and facility reclamation and decommissioning plan which indicates the planned life of the ~~wind-energy~~ facility and the means by which the facility and its site will be decommissioned and reclaimed at the end of the facility's life and which certifies that any owner of land within the ~~wind-energy~~ facility and its site who is not the applicant has been consulted in

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

development of the reclamation and decommissioning plan. Such plan shall comply with all requirements adopted by the industrial siting council under W.S. 35-12-105(d). If the permit is granted, the plan shall be updated every five (5) years until site reclamation and decommissioning is complete;

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

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

(vii) For solar energy facilities:

(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;

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

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



ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

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

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

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

(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.

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

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

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

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

(a) No person shall:

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

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

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

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

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

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

(a) As used in this act:

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

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

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

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

**34-22-105. County and municipal authority.**

(c) No local government shall prohibit the construction or use of solar collectors except for reasons of public health and safety or as authorized in W.S. 18-5-501 through 18-5-513.

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

(a) As used in this chapter:

(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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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:

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

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

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

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

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

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

(H) Any facility that would meet the definition of subparagraphs (E) or (G) of this paragraph but is planned for construction and siting or has its ownership or business structure organized in a way to circumvent the definition of "industrial facility" or "facility" or the requirements of this chapter while engaging in conduct that otherwise would be subject to the

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

requirements of this article. A facility that meets the definition of this chapter shall comply with all requirements applicable to facilities defined by subparagraphs (E) and (G) of this paragraph.

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

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

(xv) "Affected landowner" means any person holding record title to land on which any portion of a commercial facility generating electricity from wind or solar 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.

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

(d) In addition to the rules and regulations adopted under subsection (b) of this section, the council shall promulgate rules and regulations prescribing

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

decommissioning and site reclamation standards for facilities permitted under W.S. 35-12-102(a)(vii)(E), ~~and~~ (F) ~~and~~ (G). Such standards shall preempt county rules or regulations concerning decommissioning and reclamation and shall be designed to assure the proper decommissioning and interim and final site reclamation of commercial facilities generating electricity from wind ~~or solar~~ and wind energy ~~and solar energy~~ facilities during construction and operation of the facility, at the end of their useful life, upon revocation of a permit authorizing their operation or upon the happening of any event which causes operations to cease. The council's regulation shall only preempt those facilities regulated under this act. In the event of any conflict between a standard applied under this subsection and a valid order of the Wyoming public service commission, the order of the public service commission shall be applied.

(e) In addition to the rules and regulations adopted under subsection (b) of this section, the council shall promulgate rules and regulations prescribing financial assurance requirements for facilities permitted by it pursuant to W.S. 35-12-102(a)(vii)(E), ~~and~~ (F) ~~and~~ (G). These rules and regulations shall not apply to facilities that are public utilities and regulated by the Wyoming public service commission. These rules and regulations shall preempt county rules and regulations concerning financial assurances and shall be designed to provide adequate assurance that the permitted facilities will be properly reclaimed and decommissioned at the end of their useful life, upon revocation of a permit authorizing their operation or upon the happening of any event which causes operations to cease. The elements to consider when establishing adequate levels of financial assurance shall include credit worthiness, financial strength, credit



ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

history, credit rating and any other factors that reasonably bear upon the decision to accept a financial assurance. The financial assurance may be in any form acceptable to the council and may include a corporate guarantee, letter of credit, bond, deposit account or insurance policy.

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

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

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

(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);

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

(xv) For proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E), ~~or~~ (F) or (G), a list of all affected landowners with an address at which

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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) or (G), 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) or (G), 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) or (G), notify affected landowners;

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

(j) Within ten (10) 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 request for a waiver. The council shall grant a request for a waiver either as proposed or as modified by the council if it finds and determines that:

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

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

(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:

(xx) 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);

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

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

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

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

(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)~~ or (G), notify affected landowners;

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

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

(j) The council may deny an application if the facility that is the subject of the application will unreasonably interfere with the development of a known and currently economically developable mineral resource within the proposed facility.

**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.

ORIGINAL SENATE  
FILE NO. SF0036

ENGROSSED

ENROLLED ACT NO. 45, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

(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