

## **Section 17. Wind Energy Conversion Systems**

### **A. Overview**

This Section provides the regulatory framework for Wind Energy Conversion System (WECS) Facilities. The regulations within this Section are in addition to relevant development standards and regulations in other parts of this Zoning Resolution and apply to all unincorporated areas of Sweetwater County. Unless otherwise provided, the requirements of this Section are in addition to the zone district requirements set forth in the Sweetwater County Zoning Resolution.

Applications for a Commercial WECS Facility Permit require a public hearing before the Board.

### **B. Intent and Purpose**

The intent of these regulations is to: provide for public safety, prevent hazards from the construction of commercial and non-commercial WECS Facilities, preserve environmental, historical and cultural resources, maintain the unique custom and culture of Sweetwater County, and to sustain the diverse existing uses of the land. In addition, the purpose is to consider and require carefully planned and compatible WECS Facilities in Sweetwater County.

### **C. Commercial WECS Facility Permit Application Requirements**

No person shall commence or construct a Commercial WECS Facility without obtaining the required permit from the Board.

Non-Commercial WECS Facilities and MET towers will be administered in accordance with the Non-Commercial WECS Facility requirements of these regulations.

Commercial WECS Facilities shall be administered as provided below:

- 1) A Commercial WECS Facility Permit Application including all WECS Project Phases shall be accompanied with the following information:
  - a) Fee  

The Applicant shall submit fees as required.
  - b) Copies  

The Application submittal to the Department shall be accompanied by two memory sticks with digital copies of a complete Commercial WECS Facility Permit Application.
  - c) Certifications  

All certifications, affidavits, consents and acknowledgements required of the Applicant by these Regulations must meet the approval of the Sweetwater County Attorney's Office.
  - d) Owner Consent

Letters from all surface property owners upon which the WECS Facility will be located or other legal documentation (memorandum of lease, etc.) which demonstrates consent of owners for the WECS Facility.

e) Contact Information

The names, addresses, telephone numbers and email addresses of the applicants, developers, operators and owners of land within the WECS Facility.

f) Public Utility Information

Documentation that the proposed WECS Facility is owned or operated by a Public Utility and subject to the requirements of the Public Service Commission, if applicable.

g) Adjacent Landowners Contact Information

The names, addresses, telephone numbers and email addresses of all adjacent surface property owners within 2,640 feet of the WECS Facility Boundary.

h) General Scope of WECS Facility

Relevant information on the project including general location of the project, timeframe for construction including the schedule for phasing, project life, markets for the electricity produced and status of power purchase agreement.

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i) Summary of the WECS Facility

Provide a description of the WECS Facility including its total nameplate generating capacity and a nameplate capacity of each turbine, the equipment manufacturers, types of wind generation devices, complete component list of WECS, number of Wind Turbines, the maximum wind turbine height, maximum blade tip speed, the maximum diameter of the rotor, and the minimum distance between the ground and the rotor.

j) WECS Facility Site Plan

A WECS Facility site plan shall include the following:

(1) Drawings, prepared by a Professional Engineer and Surveyor Licensed in the State of Wyoming, prepared to a suitable scale on 24" x 36" sheets and two memory sticks with digital copies, depicting the layout of the following:

(a) All existing structures, right of ways, and above and below ground facilities and utilities within the WECS Facility Area and within 2,640 feet of the proposed WECS Facility Boundary. If access is not attainable outside the WECS Facility Boundary, the applicant shall propose to the Board an alternative plan that addresses any impact the project causes to any existing structures above and below ground and R.O.W.'s outside of the WECS Facility Boundary.

- (b) All proposed WECS Facility components and structures, right-of-ways, and above and below ground facilities within the WECS Facility Area and within 2,640 feet of the WECS Facility Boundary including, but not limited to, the following:
  - a. WECS Facility boundary lines and property lines prepared by a Wyoming Licensed Surveyor.
  - b. Topographic lines showing the existing topography of the project and the surrounding area (USGS or other topographic maps may be utilized).
  - c. All existing and proposed public and private access roads and turnout locations including dimensions.
  - d. Utilities, pipelines and similar facilities.
  - e. Proposed location of each WECS Tower.
  - f. Project reference number for each WECS Tower.
  - g. Anchor bases and all supports.
  - h. Layout, use and dimension of all structures and ancillary equipment within the WECS Facility Area, within 2,640 feet of the WECS Facility Boundary and within the geographical boundaries of any applicable setback. Identify all setback distances for all structures and ancillary equipment.
  - i. Fencing detail.
  - j. A complete electrical layout of the entire WECS Facility Project including substation locations, transmission, collector and gathering lines and other ancillary facility components.
  - k. Map of dominant wind characteristics. A non-proprietary map showing wind characteristics and dominant wind direction, which is the direction from which 50% or more of the energy contained in the wind flows.

k) Property Description and Vicinity Map

Property description which includes a general vicinity map of the WECS Facility and a legal description of the WECS Facility Boundary (i.e. NW1/4, SE1/4, Sec 2, T42N, R6W), and acreage within this Boundary.

l) Construction Site Plan

A construction site plan and narrative showing and explaining all components necessary

during the project construction phase including, but not limited to, batch plants, stock piles, office trailers, lay down yards, water storage, health and sanitation facilities. This site plan shall be drawn to a suitable scale on 24" x 36" sheets and submitted in digital format.

m) Environmental Report and NEPA Compliance

All applicants are required to prepare and submit to the County an Environmental Report. Said Environmental Report must satisfy all the requirements of this section. For those applicants who have complied with the requirements of a published Draft Environmental Impact Statement (Draft EIS) pursuant to the National Environmental Policy Act (NEPA), those applicants may request a waiver, from the Board, of some or all of the requirements of the Environmental Report. If no Draft EIS has been prepared pursuant to NEPA, the Board may grant a waiver or partial waiver if the applicant submits an Industrial Siting Application pursuant to the requirements of the Industrial Siting Council. No waiver shall be provided unless the applicant can demonstrate that the contents of the Draft EIS or the Industrial Siting Application, if applicable, substantially match, in whole or in part, the requirements of the Environmental Report herein. These Reports must be prepared by Qualified Professionals and submitted with the Commercial WECS Facility Permit Application, and include the following:

All applicants shall present an Environmental Report which contains the following specific report requirements; however, certain requirements and standards will be required of all applicants as specifically designated in these regulations.

1. Wildlife and Habitat

A report that includes a survey of all of the wildlife and habitat within the WECS Facility Area and in any Biologically Significant area surrounding the WECS Facility Area where legal access is available and as determined by the Wyoming Game and Fish Department or governing federal agency. Where legal access is not obtainable, the applicant shall advise the Department or the Board. Wildlife mitigation and monitoring plan shall be prepared if recommended by the Wyoming Game and Fish and/or governing federal agency.

Said report shall address:

- a. All Special Status Species
- b. The presence of elk, mule deer, antelope and other mammal populations.
- c. All avian species present, including raptors and other migratory birds. Said report shall include the important habitat for those avian species, such as nesting, stop-over sites, roost sites, and hunting perches.
- d. All bats, both resident and migratory. Said report shall include surveys for hibernacula, maternity roosts and colonial roost sites.

- e. All wildlife crucial ranges including winter ranges, parturition areas, nesting areas, fish spawning areas, migration corridors and similar areas that are critical to wildlife.
  - f. All Greater Sage Grouse Core Areas, leks and winter concentration areas.
  - g. Wildlife Studies and Surveys shall be performed in conformance with the protocols and recommendations of the Wyoming Game and Fish Department and governing federal agencies.
  - h. A Wildlife Impact Mitigation Plan, if recommended or required by Wyoming Game and Fish Department and governing federal agencies, prepared in conformance with the protocols and recommendations of the Wyoming Game and Fish Department and governing federal agencies.
  - i. A Wildlife Monitoring Plan, if recommended or required by Wyoming Game and Fish Department and governing federal agencies to monitor the effects of the developed WECS Facility on wildlife, prepared in conformance with the protocols and recommendations of the Wyoming Game and Fish Department and governing federal agencies.
  - j. An inventory of all flora and the anticipated impacts to the flora within the WECS Facility Area and a flora mitigation plan prepared by a Qualified Professional, if determined necessary by the appropriate agency.
  - k. A report, prepared by a Wyoming Licensed Professional Engineer, detailing produced water quality, supply, demand, disposal of water during the construction and maintenance of the WECS Facility, and the Project's effect on water quality and supply within 2,640 feet of the WECS Facility. This report shall include a water impact mitigation plan, if the report identifies significant adverse impacts.
  - l. An inventory of wetlands and riparian areas and any anticipated impacts to these areas within the WECS Facility Area, and an appropriate mitigation plan prepared by a Qualified Professional, if determined necessary by the appropriate agency.
2. Historical, Cultural and Archaeological Resources

The applicant shall coordinate with appropriate agencies for matters concerning cultural resources studies (archaeological and historic sites) and any other relevant federal, state and local issues. This information shall be provided with the application.

3. WECS Facility

The WECS Facility requirements shall include a report on the following including any necessary mitigation measures:

- a. The applicant shall provide a report describing the impact of the proposed WECS with the application on the adjacent community and residents. It shall describe in detail all noise studies/models and must demonstrate compliance with all ANSI/ISO standards for outdoor measurements and model predictions. Where such standards/protocols include confidence limits or limitations of use the report shall present them and provide an explanation of how they were addressed. Applicable ANSI Standards include: S12.9 "Quantities and Procedures for Description and Measurement of Environmental Sound" Part 4 "Noise Assessment and Prediction of Long-term Community Response" and ISO 9613-2 "Acoustics-Attenuation of sound during propagation outdoors, Part 2, "General Method of Calculation."

The computer model developed to estimate sound propagation from the WECS into the community shall be constructed to represent the sound immissions at the receiving properties for the predictable worst case conditions for sound emissions and propagation including that of a stable nighttime atmosphere with high levels of wind shear and turbulence above the temperature inversion boundary.

Models shall be constructed using octave band sound power levels covering the range of 31.5 to 4,000 Hz minimum. Predictions shall address all parts of the community where sound immission levels may exceed 30 dBA and 40 dBC.

All measurements, models, and reports shall be produced and certified by a qualified acoustical consultant with Full Member status with the Institute of Noise Control Engineering (INCE) and include:

- i. A description and map of the project's sound producing features, modeled in dB(A) and dB(C), and the basis for the expectation.
- ii. A description and map of the existing land uses and structures including any residences, hospitals, libraries, schools, places of worship, and parks within one and one-quarter miles of the exterior boundary of the proposed WECS. Said description shall include the location of the structure/land use, distances from the source of the sound or WECS and background (as defined in S12.9, Part 1 for "residual" noise) decibel readings (including appropriate documentation per ANSI standards for reporting, keyed to the date and time when measurements are taken) for each identified land use and structure described and mapped.
- iii. A description of the project's proposed sound control features shall be described in detail, including specific measures to minimize noise impacts to structures and land uses identified in the preceding item. Information about potential post construction mitigation options, such as operation in Noise Reduction Operating (NRO) modes shall be described. If there are no post construction

mitigation methods available a statement to that effect shall be included along with reasons supporting that statement.

- iv. The report shall address the potential for any and all adverse impacts from wind turbine sound emissions on the community and its residents located within one and one-quarter miles from the boundary of the WECS.
  - v. The report shall provide sufficient detail to permit complete peer review and include the information required in ANSI S12.18 "Procedures for Outdoor Measurement of Sound Pressure Levels" Section 9, Reporting.
  - b. The effect on Areas of Critical Environmental Concern, County and State Parks, Wilderness Study Areas, lands with wilderness characteristics, Historical Areas and Trails, and other similar areas.
  - c. The Applicant(s) shall provide certification and evidence that there will be no electromagnetic interference, caused by the WECS Facility, on any emergency and non-emergency telecommunication providers within Sweetwater County.
  - d. All reasonable public safety concerns as to the potential hazards to properties, public roadways, communities and subdivisions that may be adjacent to, or within five miles of, the WECS Facility Boundary.
  - e. Public and private aviation and airports/airstrips.
  - f. Potential hazards from ice throw.
  - g. Impact of Shadow Flicker on residences and occupied structures from any WECS Facility and estimated duration of the Shadow Flicker in hours per year.
  - h. Light impact on neighboring properties and communities
  - i. Potential hazards of Blade Glint.
  - j. Identify fire hazards and mitigation measures.
  - k. Potential hazards from collapse of damaged turbines or other system components caused by severe storms or other circumstances.
4. Social and Economic

The social and economic reporting requirements shall include the following and any mitigation measures to address adverse social and economic impacts:

- a. The estimated amount of property, sales, and other taxes to be generated by the project in Sweetwater County and outside of Sweetwater County.
  - b. Estimated local expenditures of construction materials in Sweetwater County.
  - c. The estimated number of construction jobs and estimated construction payroll. Estimated number of local construction job opportunities.
  - d. Estimate the construction workforce spending in Sweetwater County.
  - e. The estimated number of federal, state and local government jobs effected and added as a result of the WECS project.
  - f. The estimated number of permanent jobs and estimated continuing payroll.
  - g. The estimated demographic characteristics of the construction and permanent work force including workers, family members and any adverse impacts on local infrastructure i.e., schools, housing, EMS, Local and State Government, law enforcement, health, etc.
  - h. The estimated costs of the WECS Facility's impacts on roads or other public infrastructure.
  - i. A mitigation plan to address identified significant adverse socioeconomic impacts.
- n. Drainage, Erosion, Dust Control, Grading and Vegetation Removal Plan

A drainage, erosion, dust control, grading and vegetation removal plan for each phase of the project shall be prepared by a Wyoming Licensed Professional Engineer, drawn to scale and include, but not be limited to, the following:

- 1. Drainage calculations based on a 25-year storm event unless the location, terrain and topography dictate a higher amount.
- 2. Existing and proposed contours
- 3. Historic and produced flows
- 4. Existing wetlands
- 5. Established floodways
- 6. Existing and proposed roadways
- 7. Water management structures
- 8. Drainage through the WECS Facility area



9. Effects on downstream and upstream properties
  10. Erosion mitigation and runoff control
  11. Dust control
  12. A mitigation plan that addresses the risks of erosion and flooding, including flooding on all adjacent, upstream and downstream properties.
- o. Waste Management Plan
- A waste management plan that includes an inventory of estimated solid wastes to be generated and a proposed disposal program for the construction, operation and eventual decommissioning of the proposed WECS Facility.
- p. Transportation Plan
- A transportation plan prepared in accordance with these regulations.
- q. Emergency Management Plan
- Applicant(s) shall submit a written emergency management plan for review and comment to the appropriate fire department or district, County Emergency Management Coordinator and the County Sheriff. If the WECS Facility extends into another county, the emergency management plan shall address multi-county coordination of emergency notices and use of emergency services and the plan shall be commented upon by officials of the other county. If the WECS Facility permit is granted, the plan shall be supplemented and revised following construction of the WECS Facility and prior to its operation; if there are any variations in the project construction which would materially impact the original emergency management plan.
- r. Reclamation and Decommissioning Plan
- Provide a site and facility reclamation and decommissioning plan in accordance with these regulations and Wyoming Statute 18-5-503(a)(x). In addition, the applicant shall certify that any owner who is not the applicant has been notified of the requirements of the reclamation and decommissioning plan.
- s. Certification to Provide As-Built Drawings
- A certification that as-built drawings will be provided in compliance with Wyoming Statute 18-5-503(a)(viii).
- t. Certification of Compliance with Zoning and Land Use Regulations
- Certify that the proposed WECS Facility will comply with the Sweetwater County Zoning Resolution and all other applicable Sweetwater County Development Codes. Additionally, if explosives are to be stored on site, a Conditional Use Permit is required.

u. Certification of Compliance with Wyoming Statutes

Certify that the proposed WECS Facility will comply with all the standards required by Wyoming Statute 18-5-504 if Sweetwater County has not adopted more stringent standards. If Sweetwater County has adopted more stringent standards, the certification requirement shall apply to the more stringent standards.

v. Certification of Compliance with Noise Standards

Certification that the WECS project facility will not exceed any of the criteria herein at the project boundary line and at the nearest property line of land not owned by or leased to the WECS owner/operator.

w. Coordination with Local, State and Federal Agencies

A list of all local, state and federal agencies requiring approval and the projected timeline for obtaining approval from these agencies. If approved, provide a copy of such approval, including all required studies, reports and certifications. When a WECS Facility requires a Federal National Environmental Policy Act (NEPA) document and approval, the applicant shall submit with its application for a WECS Facility Permit a completed, published electronic Draft NEPA document required by the governing federal agency for the proposed WECS Facility.

x. Viewshed Impact Analysis and Proposed Mitigation Measures Report

Provide an accurate visual simulation of the WECS Facility structures and components by showing a minimum of 25 key vantage points providing the worst case scenario, in coordination with the Department, that are representative of the diverse public usage of the land including recreational, residential, and business. These vantage points shall consider a 360 degree view of the project site. The applicant shall provide a report including the following:

1. Analysis of the viewshed impacts and mitigation program for all key vantage points; and,
2. Visual rendering of the proposed WECS Towers, blades and other WECS Facility structures and facilities with color scheme represented on a relatively clear day.

y. Certification of Advertising and Promotional Lettering

Certify that there shall be no advertising or promotional lettering on any WECS Facility structure, WECS Tower, turbine, nacelle or blade beyond the manufacturer's or applicant's logo on the nacelle of the turbine as approved by Sweetwater County.

z. Publication of Notice in Newspaper

Certify that notice of the Commercial WECS Facility Permit Application will be published in the official newspaper of Sweetwater County and the official newspapers of all counties in which the proposed WECS Facility is located. This notice shall be published in all official

newspapers at least twice in two different weeks, at least 20 days prior to the Board's public hearing on the application. The notice shall include a brief summary of the WECS Facility, invite the public to submit comments and identify the time and date of said hearing.

aa. Required Letters and/or Reports

Provide letters and/or reports addressing issues or concerns from the following agencies related to the WECS Facility Area and surrounding region as determined by the Wyoming Game and Fish, Wyoming State Historic Preservation Office, Sweetwater County Conservation District, Wyoming Department of Environmental Quality and Federal Aviation Administration:

1. Wyoming Game and Fish

A letter or report from the Wyoming Game and Fish addressing any environmental issues concerning endangered or threatened species, wildlife migrations or protected populations.

2. Wyoming State Historic Preservation Office

A letter or report from the Wyoming State Historic Preservation Office addressing any historic, cultural or archaeological resources.

3. Sweetwater County Conservation District

A letter or report from the Sweetwater County Conservation District addressing soil conditions and erosion within the WECS Facility Area.

4. Wyoming Department of Environmental Quality

A letter or report from the Wyoming Department of Environmental Quality addressing any land and water quality issues.

5. FAA and Airport Notification and Letters of Approval: Provide letters from the FAA and the owners of the potentially affected public and/or private airports or airstrips demonstrating that the affected entities have been notified of the pending WECS Facility.

bb. Notice of Mineral Rights

Applicant(s) shall certify that notice has been provided to the record owners and claimants of mineral rights located on or under the lands where the proposed facility will be constructed. Such notice shall contain the location of proposed WECS towers and underground wiring and may include notice by publication. The certification of notice shall be provided with the application. The notice shall comply with all standards and requirements adopted by the Industrial Siting Council.

cc. Notice Requirements

An affidavit by the Applicant(s) shall be submitted which certifies that the Applicant has undertaken reasonable efforts to provide written notice to all owners of land within one mile of the property line of the proposed WECS Facility and to all cities and towns located within 20 miles of the WECS Facility. Notice shall include a general description of the project including its location, projected number of turbines and the likely routes of ingress and egress. The affidavit shall attest that notice was mailed to those owners of record on file at the Sweetwater County Clerk's Office.

#### **D. WECS Facility Compliance Standards**

The following standards are to be achieved by each Commercial WECS Facility whether it has been analyzed by NEPA or not. The final decision on whether or not a particular standard is achieved by a Commercial WECS Facility shall be made by the Board. The project shall also be installed as approved by the Board.

##### **1. WECS Facility Safety**

WECS Facilities shall be developed in a manner that utilizes sound engineering practices and considers public safety in regard to the potential hazards that may be created to adjacent properties, public infrastructure, communities, aviation, etc. The following lists public safety matters that shall be addressed and implemented in the development of the WECS Facility.

##### **a. Design Safety Certification**

WECS Facilities shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and the Institute of Electrical and Electronics Engineers ("IEEE") and the National Electrical Code (NEC). Concurrently with permits for construction, the Applicant(s) shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party.

##### **b. Construction Standards**

All WECS Facility structures and components shall conform to the most recent edition of the International Building, Plumbing, Fire, Mechanical and Fuel Code, and the National Electrical Code. Before the construction permit is issued, the Applicant shall provide drawings stamped by a Wyoming Licensed Professional Engineer certifying that all structures comply with the applicable code standard.

##### **c. Airport and Aircraft Safety**

WECS Facilities shall comply with applicable FAA regulations and comply with conditions regarding WECS Facility installation established by affected airports. If approved by the FAA, all WECS Facilities shall implement a FAA approved Aircraft Visual Warning System (AVWS) that allows for the use of aircraft warning lights to be minimized.

##### **d. Retro-fitting AVWS Systems**

If a WECS Facility is approved without having an AVWS system installed, the Project Owner or Operator shall install an AVWS system within one year of when AVWS systems are approved by the FAA and made available.

e. Marking Guy Wires and Anchor Points

For projects that are placed on land with public access, visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground. All guy wires must comply with the Bird Diverter Standards stated in these regulations.

f. Exterior Climb Prevention

All Wind Generation Devices and other similar WECS Facility structures must be unclimbable by design or protected by anti-climbing devices.

g. Potable Water and Sanitary Sewer

All permanent and occupied WECS Facility management and office buildings must have approved centralized potable water and sanitary sewer systems. This approval shall be obtained from the Sweetwater County Health Department or the Wyoming Department of Environmental Quality.

h. Impact on Regional Water Supplies

The WECS Facility shall not adversely affect ground water resources, in particular the ground water supplies of nearby subdivisions or other developments.

i. Fire Prevention Measures

1. All structures shall comply with the most recent edition of the International Fire Code adopted by Sweetwater County.
2. Appropriate fire protection measures as required by the Sweetwater County Code Enforcement Specialist shall be implemented.
3. All roads servicing primary structures or occupied accessory buildings shall be constructed to the standards of the most recently adopted edition of the International Fire Code.

j. As-Built Drawings

The Developer shall provide as-built drawings showing the location of all structures. All structures shall be constructed no greater than 50 feet from the locations identified with the permit application and must meet all setback requirements.

2. Visual Impacts

WECS Facilities shall not adversely impact scenic areas that are considered important by federal,

state and local governments. Important scenic areas include visual corridors, viewsheds, historic landscapes, scenic byways and scenic overlays. In determining the important scenic areas for Sweetwater County, and any adverse visual impacts caused by the proposed WECS Facility, the Board shall take into account the federal, state and local important scenic areas, the WECS visual simulations and public comment. The Board may require specific design standards or restrictions that may mitigate or prohibit the degree to which the WECS Facility may impact those important scenic areas such as structure color, building height, greater setback distances and lighting.

a. Visual Simulation Standards

The Applicant shall employ representative sampling to achieve a fair and accurate result regarding the visual impacts of the proposed WECS Facility to residents of Sweetwater County. A minimum of 25 key vantage points providing the worst case scenario, in coordination with the Department, that are representative of the diverse public usage of the land including recreational, residential, and business.

b. Growth Management Area

Commercial WECS Facilities shall not be located within the identified Growth Management Area.

c. WECS Facility Color

When not conflicting with colors required by the Federal Aviation Administration or other federal agencies, Wind Generation Devices or WECS and other WECS Facility structures shall be painted a non-reflective and unobtrusive color that blends with the landscape and is accepted by the Board. The color selected shall be compatible with the natural visual character of the area.

d. Significant Shadow Flicker

WECS Facilities shall be designed so that there is no Significant Shadow Flicker at an adjacent property unless waived in writing and recorded against the property by the landowner in the Sweetwater County Clerk's office.

e. Visibility, Screening and Buffering

WECS Facility structures shall be located to make maximum use of existing terrain, vegetation and structures for the purposes of maintaining the viewshed.

f. Light Pollution

WECS Facilities, including buildings and structures, shall utilize International Dark-Sky Association compliant fixtures or an approved equal unless subject to FAA regulations.

g. Screening of Outdoor Storage

Except during construction, re-construction or decommissioning, outdoor storage is not

permitted within the project boundary except at locations that are screened in accordance with the regulations of the Sweetwater County Zoning Resolution.

h. Buried Collector and Gathering Lines

Intra-project power lines having a voltage of 34,500 volts or less shall be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines, standards or applicable law.

i. Signage

There shall be no advertising or promotional lettering of any type allowed on any WECS Facility structures or Wind Generation Devices beyond the manufacturer's or the applicant's logo on the nacelle of the turbine.

3. Natural and Biological Resources

a. Wildlife Critical Areas

WECS Facilities shall not be located in areas that would result in significant impact to wildlife, wildlife habitat, or crucial wildlife ranges as determined by the Wyoming Game and Fish and/or the governing federal agency. Wildlife critical areas include, but are not limited to, crucial winter ranges, parturition areas, nesting areas, spawning areas, riparian areas and migration corridors.

b. Lands with Special Characteristics

WECS Facilities shall not be located in Wilderness Study Areas, Lands with Wilderness Characteristics, Areas of Environmental Concern, federal, state or county parks, National Recreation Areas, historic trails or special management areas and the Sweetwater County Growth Management Area.

c. MET Towers, WECS Facility Components and Avian Protection

Developers shall use MET Towers and WECS Facility components with designs that provide for the best prevention of injuries to avian predators and other avian species. For the purposes of avoiding bird collisions and to eliminate the need for MET Tower conversion during the WECS Facility construction phase, MET Towers shall comply with the following standards:

1. Permanent MET Towers

Monopole, non-lattice, non-guyed towers are required on Permanent MET Towers. The State of Wyoming requires that the owner or lessee of a MET Tower meeting established criteria must enter data into the Wyoming Department of Transportation MET Tower Database for the MET Tower. For MET Towers meeting the established criteria, the State of Wyoming also requires that a MET Tower structure be made visible so that it is recognizable in clear air during daylight hours from a distance of at least 2,000 feet. Structures can be made visible by lighting, marking,

painting, flagging, or otherwise constructing the tower in a manner that makes the tower visible from at least 2,000 feet.

2. Temporary MET Towers

Where guyed Temporary MET Towers are installed, the following stipulations apply:

a. The State of Wyoming requires that the owner or lessee of a MET Tower meeting established criteria must enter data into the Wyoming Department of Transportation MET Tower Database for the MET Tower. For MET Towers meeting the established criteria, the State of Wyoming also requires that a MET Tower structure be made visible so that it is recognizable in clear air during daylight hours from a distance of at least 2,000 feet. Structures can be made visible by lighting, marking, painting, flagging, or otherwise constructing the tower in a manner that makes the tower visible from at least 2,000 feet.

b. Bird diverters are required to be installed on guy wires.

c. Bird diverters shall display the following characteristics:

i. Movement in at least a 5 mile per hour wind and able to withstand winds above 20 miles per hour.

ii. Reflective in sunlight.

iii. 10 hours of luminescence at night.

iv. Incorporate UV reflection for lowlight conditions.

v. At least 18–square inches per single diverter design.

d. Term of Temporary MET Towers

Not to exceed three years with an option of one renewal not to exceed three years. If an applicant has an obligation from a state or federal agency to report bird fatalities caused by MET Towers, the applicant shall provide a copy of said report to the Board for each period in which the report is prepared. The Board may use this information in reviewing any application for renewal.

d. Greater Sage Grouse Core Areas

No WECS Facility shall be located within Greater Sage Grouse Core Areas as defined by Governor Order 2011-5 or as amended.

e. Avian Protection

Whether or not the proposed WECS Facility is on public or private lands, Developers,



Operators and Project Owners of WECS Facilities shall comply with all governing federal or state regulations regarding protection of avian species

f. Construction and Access during Wildlife Use

The Developer shall only perform WECS Facility construction activities within wildlife crucial ranges or migration corridors as recommended by the Wyoming Game and Fish or authorized by the applicable governing agency. Portions of the WECS Facility inside crucial winter ranges or migration corridors shall be closed to vehicle use during their period of use by wildlife as determined by the applicable governing agency. Vehicles for emergency and routine maintenance will be allowed as approved by the applicable governing agency.

g. Protection of Bats

WECS Facilities shall be designed to avoid identified areas of concentrated bat use as recommended by the Wyoming Game and Fish or authorized by the governing federal agency. If WECS Facilities are sited across known migration routes or between roosting and feeding areas, these Facilities may be subject to mitigation measures by the Wyoming Game and Fish or the governing federal agency. For Commercial WECS Facility Applications that involve 30 or fewer turbines and are not otherwise reviewed by the Industrial Siting Council and where surveys have determined the WECS Facility will increase bat mortality, the turbine blade minimum “cut in” speed shall be set to wind velocities greater than six meters per second or as otherwise recommended by the Wyoming Game and Fish or other governing federal authority.

h. Protection of Raptors

1. WECS Facilities shall not be permitted within or adjacent to areas of elevated raptor concentration that are recognized by the Wyoming Game and Fish Department or a governing federal agency.
2. WECS Facilities shall be designed to avoid frequently used flight paths to and from nesting and/or roosting sites as determined by Wyoming Game and Fish or a governing federal agency.
3. WECS Facilities shall be set back at a distance of at least 328 feet (100 meters) from rims to reduce mortality of soaring raptors, or as recommended by the Wyoming Game and Fish or a governing federal agency.
4. WECS Facilities shall not be located within canyons or passes to avoid conflicts with raptors, unless otherwise approved by the Wyoming Game and Fish Department or the governing federal agency.

i. Historical, Cultural and Archeological Resources

On public lands or where otherwise required by law, WECS Facilities shall avoid sites with known sensitive historical, cultural and archaeological resources as determined by Wyoming State Historical Preservation Office or the governing federal agency. If mitigation is available, the selected site may be approved subject to the acceptance of the

mitigation plan by the Wyoming State Historical Preservation Office or the governing federal agency. On private lands, the Board strongly encourages mitigation and preservation of these important historical, cultural and archaeological resources.

j. Site Management of Air, Water, Soil and Vegetation

1. Drainage

Drainage from the WECS Facility shall not adversely affect upstream and downstream properties.

2. Soil Erosion and Run-off

WECS Facilities shall avoid soil erosion and controlled runoff. Disturbance and construction on erodible soils and slopes shall be avoided.

3. Dust Control

Dust Control within all phases of the WECS Facility is mandatory, and shall be accomplished with Magnesium Chloride by means acceptable to Sweetwater County and WDEQ.

4. Noxious Weed and Invasive Species Control

Noxious weed control, as defined by Wyoming Statutes, shall be required in all phases of the WECS Facility. Invasive species, as defined by Sweetwater County Weed and Pest, shall be controlled in all phases of the WECS Facility.

5. Vegetation

Damage to existing vegetation shall be minimized. Disturbed areas shall be reseeded in accordance with WDEQ regulations and the reclamation plan approved by the Board.

6. WECS Facility Area Ground Disturbance

Minimize site disturbance by limiting the number and widths of roads, construction staging areas, crane pad sites, etc.

7. Topsoil Storage

Topsoil removed by grading shall be stored in accordance with the reclamation plan approved by the Board.

k. Noise Management

Noise Immissions from the operation of a WECS shall not exceed:

1. 45 decibels on the dB(A) scale during the hours between 7 am and 7 pm MDT, and

2. 40 decibels on the dB(A) scale during the hours between 7 pm and 7 am MDT. In addition, noise immissions shall not exceed 50 decibels on the dB(C) scale during the hours between 7 pm and 7 am. Such noise immissions shall be measured at the nearest receiving property or lot line not owned or leased to the WECS owner/operator.

Property owners located within one and one-quarter miles of the proposed WECS project boundary, where noise immissions may exceed 50 decibels on the dB(C) scale or 45 decibels on the dB(A) scale day or 40 decibels on the dB(A) scale (night), may waive the noise management requirements by a written noise easement that meets the following requirements:

- a. The non-participating landowner is made aware of all risks in writing associated with granting the easement such as risks of potential adverse health effects from the sound levels on people and animals or property value issues including how such a lease could affect financing and future sales of the property.
- b. The noise easement will allow the WECS project to exceed the 50 dB(C) or 45/40 dB(A) on the landowner's property.
- c. The term of the noise easement shall remain in effect for the duration of the WECS project until reclamation is complete.
- d. The noise easement shall be a non-exclusive easement.
- e. The easement shall be recorded in the Sweetwater County's Clerks Office as part of the chain of title for the subject property.
- f. Easement documentation shall be approved by the Sweetwater County Attorney's Office and Board.

Noise emissions shall be free of audible and inaudible tones that exceed a Tone to Noise Ratio greater than 10 for frequencies below 1000Hz or greater than eight for frequencies of 1000 Hz and above. Procedures of ANSI S1.13 2005 (2010 or most recent) Measurement of Sound Pressure Levels in Air, Annex A Identification and evaluation of prominent discrete tones, Section A.7 Tone-to-noise ratio method.

All measurements shall be conducted using properly calibrated Type 1 sound testing instruments meeting ANSI S1.43 1997 (R2007 or most recent) Specification for Integrating-Averaging Sound Level Meters (or IEC 61672-1).

In addition, all test protocols must be in compliance with ANSI Standards for outdoor sound measurements and be under the supervision of a Full Member of the Institute of Noise Control Engineers (INCE). Applicable ANSI Standards include: S12.9, "Quantities and Procedures for Description and Measurement of Environmental Sound" Parts 1, 2, and 3; and S12.18 "Procedures for Outdoor Measurement of Sound Pressure Levels."

An anemometer accurate to  $\pm 10\%$  at 2m/s to full-scale accuracy. The anemometer shall be located one and one-half to two meters above the ground and orientated to record maximum wind velocity. The maximum wind velocity, wind direction, temperature and humidity shall be recorded in one minute increments at a site within five meters of the measuring microphone.

Sound tests shall meet all requirements in ANSI S12.18 Method #2, Precision, to the extent possible, while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S12.18 may not be applicable for some complaint tests. For sound measurements in response to a complaint, the compliance sound measurements should be made under conditions that replicate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.

The report shall provide sufficient detail to permit complete peer review and include the information required in ANSI S12.18 "Procedures for Outdoor Measurement of Sound Pressure Levels" Section 9 Reporting. The report shall identify any deviations from the requirements of this regulation, explain the basis for those deviations, and explain how those deviations impact the results of the tests.

4. Commercial WECS Setbacks and Standards

<b>Commercial Wind Generation Device</b>	<b>Minimum Setbacks</b>	<b>Additional, Waivers &amp; Similar</b>
Primary Structure	Five and one-half times the Wind Generation Device Height or one-half mile, whichever distance is greater.	If the person owning the primary structure waives, in writing, the setback requirement of five and one-half times the height of the Wind Generation Device, the minimum setback shall be one and one-half times the Wind Generation Device Height.
Third Party Transmission and Distribution Lines	One and one-half times the Wind Generation Device Height.	
Communication Towers	One and one-half times the Wind Generation Device Height.	
WECS Facility Boundary Line	One and one-half times the Wind Generation Device Height or a minimum distance of 1,600 feet, whichever distance is greater.	
County Residential Zone District and any City and Town	One and one-quarter Miles	
Any Platted Subdivision	One and one-quarter Miles	

Right-of-Way (ROW) of all Federal, State, County and Municipal Roads	Five and one-half times the Wind Generation Device Height or one-half mile from the ROW, whichever distance is greater.	Unless waived by the Board. Measured from the edge of the ROW.
Railroads	Five and one-half times the Wind Generation Device Height or one-half mile from the ROW, whichever distance is greater.	Unless waived by the Board. Measured from the edge of the ROW.
Federal, State and County Parks, National Recreation Areas and Wildlife Refuges	A minimum distance of one mile.	Unless waived by the Board upon recommendation from the applicable agency.

A waiver from the setback requirements shall run with the land and shall be recorded as part of the chain of title for the subject property. Copies of the recorded waivers shall be furnished to the County and included in the application file.

Setbacks shall be measured from the center of the Wind Generation Device foundation.

**E. Transportation and Other Public Infrastructure**

1. Transportation Plan

Any Applicants proposing to use any public or private roads for the purpose of transporting WECS Facility components or equipment for construction, operation, maintenance and decommissioning shall submit a Transportation Plan, prepared by a Wyoming Licensed Professional Engineer, that addresses and includes the following:

a. Legal Access and Public Roadways

A report demonstrating how legal access will be provided to the WECS Facility. The report shall describe how private roadways within the project will be marked as private roadways and shall acknowledge that the County is not required to repair, maintain or accept any dedication of the private roadways to the public use.

b. WECS Facility Roadways and Haul Routes

A report, with plans and maps, prepared by a Wyoming Licensed Professional Engineer, that:

1. Explains and identifies all existing and proposed county, public, federal resource roads and private roads expected to be used in the construction, operation and decommissioning of the WECS Facility, including all roads that will be used as WECS Facility haul and transportation routes for all equipment and materials necessary for the WECS Facility.

2. Includes the anticipated height, width, length, and weight data for all WECS Facility loads to be transported and the plan for upgrading, maintaining and reclaiming.
3. Provides plans demonstrating compliance with the application site plan requirements.

c. Traffic Study

A traffic study, prepared by a Wyoming Licensed Professional Engineer, of any public roadways leading to and away from the proposed project during construction, operation and decommissioning. This traffic study must assess the existing roadway conditions, evaluate the ability of the existing roadways and proposed roadway to accommodate WECS Facility traffic loads, identify proposed mitigation measures to address roadway impacts and propose a plan to implement identified mitigation measures. This traffic plan must address costs of mitigation. These costs are the responsibility of the Developer and must be addressed to the satisfaction of Sweetwater County in the Road Use and Maintenance Agreement.

2. Road Use and Maintenance Agreement

The Board shall require the Applicants to enter into a Road Use and Maintenance Agreement for the use of County roads prior to construction of the project. The Road Use and Maintenance Agreement shall be developed by the Applicants for review by the Sweetwater County Engineering Department, Land Use Department, and the County Attorney's Office. In the Road Use and Maintenance Agreement, the Applicant shall certify and acknowledge that:

- a. Prior to preconstruction, site occupancy, over lot grading or construction of any component of the WECS Facility, the Applicant shall obtain and submit to Sweetwater County copies of all approved Federal, State and local government or agency required permits related to access, access modification, change of use of access permits; utility crossing permits or approved plans required by applicable governments and agencies necessary to address and mitigate impacts to any Federal, State or County Highway/Road facilities.
- b. The Applicant(s) shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential damage to roadways due to the WECS Facility.
- c. The use of public roads and other public infrastructure shall be in accordance and compliance with existing regulations governing such activities. Any degradation to or damage of public roads or other infrastructure by parties affiliated with the installation, operation or maintenance of the WECS Facility shall bear all costs required to return the public roads or other infrastructure to their original or better condition.
- d. The Applicant shall submit Financial Assurance in a sufficient amount to repair damage to all public roadways attributed to the construction, operation and maintenance of the WECS Facility. Said Financial Assurance shall be signed and sealed by the Applicant's engineer and approved by the Sweetwater County Public Works Director for final approval by the Board.

**F. Operations and Maintenance**

1. The Developer or Operator shall perform routine and scheduled maintenance including the repainting of equipment and structures and servicing of the grounds and landscape. If the WECS Facilities are under the jurisdiction of the Wyoming Public Service Commission, the requirements of this subparagraph may not apply.
2. All solid wastes and hazardous materials related to the construction, operation and maintenance of a WECS Facility shall be handled, stored or disposed of in accordance with the approved waste management plan and in accordance with all applicable Federal, State and County laws and regulations.
3. On April 1st of every even numbered year after the third anniversary of the permit, the Developer or Operator of the WECS Facility shall submit to the Department a statement that lists all WECS Towers currently inoperative for longer than six continuous months. All WECS Towers that remain inoperative for 18 continuous months or longer must be removed unless the Developer or Operator provides a written plan and schedule acceptable to the Board for refurbishing and/or reactivating the inoperative WECS. If the Developer or Operator of the WECS Facility is regulated by the Wyoming Public Service Commission, the requirements of the second sentence of this subparagraph may not apply.
4. The Developer or Operator of the WECS Facility shall control and eradicate noxious and invasive weed species within the disturbed areas of the project. Weed control shall be maintained as directed by the Sweetwater County Weed and Pest Control District or the appropriate public entity having jurisdiction.
5. To the extent not inconsistent with confidentiality and security obligations under State and Federal law; the Developer or Operator shall provide the Department with a detailed map of the site within 90 days of when operation begins. This map will include the geographic coordinates of each WECS structure, all roads within the WECS Facility area, and public roads and turnouts connecting to roads of the WECS Facility. This map shall be updated by the Developer or Operator every five years or after the completion of any significant additional construction, whichever occurs first, and approved by the Department.

**G. General WECS Facility Decommissioning, Reclamation, and Financial Assurance**

1. WECS Facilities owned or operated by a Public Utility subject to requirements of the Public Service Commission are exempt from Sweetwater County's and Wyoming Industrial Siting Council's decommissioning, reclamation and financial assurance requirement in accordance with W.S. 35-12-105(d) and (e). Documentation that the proposed WECS Facility is owned or operated by a Public Utility and subject to the requirements of the Public Service Commission shall be provided with the application.
2. Commercial WECS Facilities under the jurisdiction of the Industrial Siting Council as provided under Wyoming Statute 35-12-102(a)(vii)(E) and (F) shall submit a WECS Facility decommissioning and reclamation plan and financial assurance that complies with the criteria of W.S. 35-12-105(d) and (e) and the Rules and Regulations of the Industrial Siting Council.
3. For all other Commercial WECS Facilities, pursuant to W.S. 35-12-102(a)(vii)(E) and (F), which are not subject to the Wyoming Industrial Siting Council, the applicant or developer shall meet the

Sweetwater County WECS Facility Decommissioning, Reclamation and Financial Assurance Regulations as stated in these Regulations.

4. The chart below provides regulatory requirements for reclamation and decommissioning.

<b>Categories of Commercial Wind Energy Facilities</b>	<b>Regulatory Jurisdiction Regarding Decommissioning, Reclamation, Financial Assurance.</b>
WECS Facility development cost estimates meet or exceed the qualifying amount for an Industrial Siting Council Project.	Wyoming Statute 35-12-102(a)(vii)(E) and (F) and 35-12-105(d) and (e); Industrial Siting Council Rules and Regulations.
WECS Facilities that contain 30 or more WECS Towers.	Wyoming Statute 35-12-102(a)(vii)(E) and (F) and 35-12-105(d) and (e); Industrial Siting Council Rules and Regulations
WECS Facilities that contain less than 30 WECS Towers, accepted by the Industrial Siting Council after referral by the Board on the basis of environmental, social or economic factors.	Wyoming Statute 35-12-102(a)(vii)(E) and (F) and 35-12-105(d) and (e); Industrial Siting Council Rules and Regulations
WECS Facilities that contain less than 30 WECS Towers not referred by the Board nor accepted by the Industrial Siting Council.	Sweetwater County Decommissioning, Reclamation and Financial Assurance Regulations

**H. WECS Facility Decommissioning, Reclamation, and Financial Assurance**

1. WECS Facility Decommissioning

The applicant shall provide a WECS Facility Decommissioning Plan which includes the following:

- a. Provisions regarding the removal and proper disposal of all wind turbines, towers, substations, buildings, structures, cabling, electrical components, foundations to a depth of 48 inches from original grade, and any other associated or ancillary equipment or structures within the facility boundary above and below ground.
- b. The Developer may request that buildings be left on site if approval is obtained from the owner and upon written notification to the Board.
- c. WECS Facility or individual Wind Generation Device decommissioning shall begin:
  - 1. Within 12 months after the end of the useful life of the facility or individual Wind Generation Device, or



2. When no electrical energy is generated for a continuous period of 12 months by the facility or individual Wind Generation Device.
3. If the WECS Facility provides good cause prior to the end of the continuous period stated herein, the Board may extend the time for decommissioning once the generation of electricity has ceased for the facility or individual Wind Generation Device.
- d. The facility decommissioning plan shall be updated and submitted to Sweetwater County every five years.

2. Interim Reclamation

Interim Reclamation shall comply with the applicable permitting requirements of the Department of Environmental Quality Water Quality Division Storm Water Program.

3. Final Reclamation

The applicant shall provide a final reclamation plan which shall include:

- a. A detailed description of site conditions prior to construction, including topography, vegetative cover (including plant species and plant community structure), climate and land uses.
- b. Provisions regarding the regrading of all WECS Facility component and structure foundations, roads, and all other surface disturbances within the facility boundary to the natural contours of the area. Backfilling, grading and contouring of affected land shall be accomplished by one or more of the following as detailed in the approved reclamation plan:
  1. Re-establishment of the contour of the land in a manner consistent with the proposed future use of the land.
  2. Contouring affected land to blend in with the topography of the surrounding terrain unless doing so would create an erosion problem or hazard.
  3. The WECS facility may leave a road un-reclaimed if approval is obtained from both the surface landowner and the Board.
- c. Re-vegetation.
  1. After backfilling, grading and contouring, and the replacement of topsoil, re-vegetation shall be commenced in such a manner so as to most efficiently accommodate the retention of moisture and control erosion on all affected lands to be re-vegetated.
  2. Re-vegetation requirements shall include seedbed preparation, seed mixture, and post seeding maintenance of all disturbed areas.
  3. If applicable, documentation of any mulching and/or use of fertilizers.

4. Reclamation shall consist of restoring the land using native or adaptive perennial vegetative cover to a condition equal to, or better than, the original condition.
  5. Re-vegetation of all affected lands shall be accomplished in a manner consistent with the approved reclamation plan and the proposed future use of the land.
  6. Seeding of affected land shall be conducted during the first normal period for favorable planting conditions after final preparation, unless an alternative plan is approved by the Board. The species of vegetation to be used in re-vegetation efforts shall be described in the reclamation plan indicating the composition of seed mixtures and the amount of seed to be distributed on the areas on a per acre basis.
  7. The developer must control and minimize the introduction of noxious weeds into the re-vegetated areas until final reclamation is achieved.
- d. The final reclamation plan shall be updated and submitted to the Board every five years.
4. Financial Assurance

The applicant shall provide Financial Assurances sufficient to assure complete decommissioning and site reclamation of the WECS Facility in accordance with the provisions of these rules. WECS Facilities subject to regulation by the Public Service Commission shall be exempt from these Financial Assurance provisions and from the Cost Estimation of Decommissioning and Site Reclamation provisions of these regulations.

- a. All Financial Assurances shall be in place prior to commencement of construction of any WECS Facility.
- b. The amount of the Financial Assurance shall be adjusted up or down every five years from the date of permit issuance by the Board based on the results of Final Reclamation.
- c. Additional Financial Assurances to cover risks not anticipated at the time of the permit may be required at any time by the Board, as reasonable and necessary, provided that the Board first gives 30 days written notice stating the reason for and the amount of the additional Financial Assurance.
- d. Financial Assurance in the form of domestic securities may be accepted in any of the following forms at the discretion of the Board with consideration of credit worthiness, financial strength, credit history, credit rating and debt.
  1. Surety bond with a corporate surety registered in Wyoming.
  2. Certificate of deposit in the name of "Sweetwater County" with a state or federally insured financial institution in Wyoming. The permittee shall be entitled to all interest payments.
  3. Other forms of assurance such as corporate guarantee, letter of credit, insurance policy, or other forms of assurance as may be acceptable to the Board.

5. Cost Estimation for Decommissioning and Site Reclamation of the WECS Facility
  - a. Estimates of cost for decommissioning and site reclamation shall be made by a Wyoming Licensed Professional Engineer and subject to review and approval by the Board.
  - b. Total decommissioning costs shall be estimated without regard to the salvage value of the equipment.
  - c. Decommissioning and site reclamation estimates shall be submitted to the Board in the application and every five years after the date of permit issuance until the completion of final reclamation.
  - d. The Wyoming Licensed Professional Engineer estimate of decommissioning and reclamation costs shall include the following:
    1. A general discussion of assumptions, including equipment, timeframes, backup calculations, procedures, methods and any other considerations used in developing the cost estimate.
    2. A detailed description of the decommissioning activities to be performed.
    3. A detailed description of the reclamation activities to be performed.
  - e. The Developer may request release of the Financial Assurance mechanism when the facility has achieved final reclamation. Final reclamation means that all surface disturbances have been re-graded and re-vegetated with a uniform perennial vegetative cover with a density of 90% of the native or adaptive background vegetative cover. Noxious weeds shall not be included in the density requirement in determining reclamation success.
6. The Board may grant a case by case variance to requirements of WECS Facility Decommissioning, Reclamation and Financial Assurance Regulations after considering whether good cause is shown by the applicant or landowner.

**I. Approval Process for WECS Facility Permit**

1. Pre-Application Submittal Meeting

Prior to submitting an application for a Commercial WECS Facility Permit, the applicant shall arrange and attend a Pre-Application Meeting with the Department.

2. Application Submittal Meeting

After preparing an application for the Commercial WECS Facility Permit, the applicant shall arrange for and attend an Application Submittal Meeting. The purpose of this Meeting is for the Department to provide a summary review of the Application. This review determines whether the application is generally complete and is not missing major application components, such as the Transportation Plan or the Social and Economic Study. If, during this meeting, application components are found missing, the applicant has the following options:

- a. The applicant may file the application as a final application to begin the review period by the Board as required by Wyoming Statute 18-5-505, or
- b. The applicant may correct the identified application deficiencies and formally resubmit the corrected application at a later date.

It is important to note that the Application Submittal Meeting review by Staff is intended to be a summary review that assists the applicant to determine if the application contains the required components. This review is not a substitute for the statutory completeness review conducted by the Board, nor does this summary review commit the County to a finding that any of the required application components are complete.

- 3. Upon receipt of an application, the Board shall review the application to determine if it contains all the information required by W.S. 18-5-503, these regulations and any other applicable rules and regulations. If the Board determines that the application is incomplete, it shall, within 30 days of receipt of the application, notify the Applicant(s) of the specific deficiencies in the application. The Applicant(s) shall provide the additional information necessary within 30 days of receipt of a request for additional information. When the Board determines that the application is complete it shall notify the Applicant(s) that the application is complete and shall provide notice of the date and time at which the hearing required by W.S. 18-5-506 and these regulations shall be conducted. The determination by the Board that an application is complete is no assurance that a particular outcome will be achieved at the public hearing.
- 4. The Board shall hold a public hearing to consider public comment on the application no less than 45 days and not more than 60 days after determining that the application is complete. Written comments on the application shall be accepted by the Board for not less than 45 days after determining that the application is complete.
- 5. Decision of the Board and Findings Necessary
  - a. Within 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 on the record either granting or denying the application and state whether or not the Applicant(s) has met the applicable standards. 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 WECS Facility complies with all standards properly adopted and the standards required by this regulation.
  - b. No permit shall be granted if the application is incomplete or if all notices required by this regulation and W.S. 18-5-503(a)(i) & (ii), and 18-5-504(c) have not been met.
  - c. A copy of the decision shall be provided to the Applicant(s).

**J. Administration & Enforcement of Commercial WECS**

- 1. Liability Insurance
  - a. The applicant and or operator(s) of the WECS Facility shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$5 million

per occurrence and \$10 million in the aggregate. The applicant(s) shall provide proof of insurance to the Board prior to the approval of the submitted application. If the application is approved, the owner(s) or operator(s) of the WECS shall provide proof of insurance annually.

2. Transfer of WECS Facility Permits

- a. Notification of a proposed change of owner of the WECS Facility shall be provided to the Board 45 calendar days prior to any such change taking place. Documentation evidencing any such transfer shall be submitted to the Board within 20 days after such transfer is complete. The transferee upon transfer of ownership shall be responsible for assuming all obligations under the approved WECS Facility Permit.

3. Revocation or Suspension of WECS Facility Permit

- a. A WECS Facility Permit may be revoked or suspended by the Board for:
  1. Any materially false statement in the application or in accompanying statements or studies required of the Applicant(s).
  2. Failure to comply with the terms or conditions of the permit after notice of the failure and reasonable opportunity to correct the failure.
  3. Failure to comply with the requirements in W.S. 18-5-501 through 18-5-513, or failure to comply with any order, rule or regulation which has been adopted under the authority of these statutes by the Board, or any rule or regulation of the Industrial Siting Council.
  4. Failure of the proposed WECS 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
  5. Failure of the permitted WECS Facility to:
    - i. Transmit electricity created by wind energy for a period of two consecutive years or more;
    - ii. Maintain land rights necessary to operate the WECS Facility.

4. Expiration of WECS Facility Permits

- a. Any WECS Facility for which a WECS Facility Permit is granted under this section must be commenced within three years from the date of approval by the Board. If the WECS Facility is not commenced within three years from said date of approval, then the WECS Facility Permit shall expire and become null and void and be of no further effect. If the WECS Facility is not operational within two years from the date of project or phase commencement, then the WECS Facility Permit shall expire and become null and void and be of no further effect. If the WECS Facility is to be constructed in phases, the applicant shall submit the schedule for completion of each phase for Board approval with the

application, subject to a time limit of seven years for phased development, which means all phased projects must be completely operational within seven years of the date that the WECS permit was approved.

- b. For the purpose of this section, “commencement of construction” means storage of construction equipment and vehicles on the project site, grading, road construction, and initiation of construction of a WECS Facility. For the purpose of this section, the WECS Facility shall be considered to be “operational” if the project is transmitting electricity.
  - c. If the WECS Facility has not been commenced or has not become operational as required, the Applicant(s) may request an extension of the permit. The Applicant(s) shall apply to the County in writing for the extension no later than 90 days prior to the expiration of the permit. At the time of the application for the extension, the Applicant(s) shall provide such information as is necessary for the County to determine whether good cause exists for the extension. Such information may include, but is not limited to, good faith efforts to obtain required authorization for the WECS Facility from other agencies having jurisdiction, such as the Wyoming Industrial Siting Council, delay in construction due to weather conditions, or other causes which have delayed the project and which are beyond the reasonable control of the Applicant(s). The Board shall promptly consider the application for the extension and either allow it or deny it. No permit shall expire during the time the decision on the extension is being considered.
5. Penalties for Violations of Commercial WECS’s
- a. No person shall:
    - 1. Commence to construct a WECS Facility on or after July 1, 2010 without first obtaining a permit required by W.S.18-5-501 through 513 and this section;
    - 2. Construct, reconstruct, operate, locate, erect, maintain, enlarge, change or use a WECS Facility after having first obtained a WECS Facility permit, other than in specific compliance with the permit; or
    - 3. Cause any of the acts specified in this subsection to occur.
  - b. Any person violating subsection (a) of this section is liable for a civil or criminal penalty as provided for in Wyoming Statute 18-5-512 or as amended.
6. Industrial Siting Council Referral
- The Board may refer any application to the Industrial Siting Council to permit a WECS Facility which does not meet the definition of a facility as defined by W.S. 35-12-102(a)(vii) subject to the provisions found under W.S. 18-5-509 and W.S. 18-5-510.
7. Periodic Inspections
- a. Staff may perform periodic inspections of the WECS Project to verify WECS Facility Permit requirements.

- b. The Project Owner or Operator shall provide an affidavit to the Department every five years certifying that the WECS Project is in compliance with their WECS Facility permit.

**K. Commercial WECS Facility Construction Permit**

1. Upon approval of the WECS Facility permit, the applicant shall submit to the Department a complete Sweetwater County Commercial WECS Facility Construction Permit application that includes all of the following:
  - a. Evidence that all applicable conditions and terms of the approved WECS Facility Permit have been satisfied.
  - b. Construction Drawings. Building and foundation plans stamped by a Wyoming Licensed Professional Engineer as required.
  - c. Floor plans of all buildings.
  - d. A final plan for site security.
  - e. Final documentation that the project is in compliance with all of the requirements of all applicable state and federal agencies.
2. After the Department receives a complete Commercial WECS Facility Construction Permit application, the Department will review it for compliance, and, if approved, the Department will issue the permit.
3. The Commercial WECS Facility Construction Permit shall be enforced pursuant to these regulations.

**L. Non-Commercial WECS Facility Permit and MET Towers**

Non-Commercial WECS Facilities and MET Towers will be administered in accordance with the following requirements and these regulations:

1. Non-Commercial WECS Facility Permit Standards and Application Requirements
  - a. Maximum Wind Generation Device Height  

Parcels less than five acres in size shall have a maximum Wind Generation Device height of 60 feet. Parcels five acres in size and larger shall have a maximum Wind Generation Device height of 100 feet.
  - b. Maximum Wind Generation Device Limit  

Parcels five acres in size and less shall be limited to one Wind Generation Device. Parcels five acres and more shall be limited to two Wind Generation Devices unless approved by the Board.

c. Noise

Sound emitted by a Wind Generation Device shall not exceed:

1. 40 decibels on the dB(A) scale during the hours between 7 am and 7 pm MDT, and
2. 35 decibels on the dB(A) scale during the hours between 7 pm and 7 am MDT. In addition, noise immissions shall not exceed 50 decibels on the dB(C) scale during the hours between 7 pm and 7 am. Such noise immissions shall be measured at the nearest receiving property or lot line. All other requirements of Noise Management shall be followed.

d. Setbacks

No Wind Generation Device shall be constructed on any property a distance of less than 150% of the Wind Generation Device Height from all adjacent property lines.

e. Clear Zone

The Wind Generation Device shall be maintained in a circular clear zone that has a radius which is equivalent to 110% of the wind generation device height. The clear zone shall be maintained free of any occupied structure, tanks containing combustible/flammable liquids and above ground utility/electrical lines.

f. Tower Security

All WECSs or Wind Generation Devices shall be un-climbable.

g. Lighting

All WECS structures shall have International Dark-Sky Association compliant fixtures or an approved equal in accordance with FAA regulations.

h. Advertising

No WECS or Wind Generation Device shall have any writing or picture that may be construed as advertising.

i. Colors

All towers shall be standard colors as provided by the manufacturer.

j. Approved Non-Commercial WECS or Wind Generation Device

At the time of application, the Applicant must present a certification from the manufacturer that the all of the system's turbines and other components are equal or exceed the standards of one of the following national certification programs such as the Institute of Electrical and Electronics Engineers ("IEEE"), National Electric Code (NEC), National Electric Safety



Code, (NESC), American National Standards Institute (ANSI) or any other appropriate recognized standard and in no case shall the standards be less stringent than the requirements of the most recent edition adopted by the State of Wyoming.

k. Utility Notification

If applicable, permit applications for Non-Commercial WECS shall be accompanied by evidence that the utility company serving the property of the Applicant has been informed of the customer's intent to install an interconnected customer owned generator.

2. Administration and Enforcement of Non-Commercial WECS Facility Permit

a. Removal of Defective or Abandoned WECS's or Wind Generation Devices

1. Any Wind Generation Device found to be unsafe by an authorized County official, or designated authority, shall be repaired or removed with all due urgency within 14 days by the Owner(s) to meet federal, state and local safety standards. If any WECS Tower is not operational for a continuous period of 12 months, the County will notify the landowner by registered mail and provide 30 days for a response. In such a response, the landowner shall set forth reasons for operational difficulty and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of notice.

b. Construction Permit

No person shall construct a Non-Commercial WECS Facility without first obtaining a Construction permit for a Non-Commercial WECS Facility.

c. Maintaining Compliance

All Non-Commercial WECS or Wind Generation Devices shall be maintained as per the manufacturer's specifications.

d. Neighborhood Concerns

All reasonable concerns of neighbors must be resolved before a Construction Permit for a Non-Commercial WECS Facility will be issued. To help identify and mitigate neighborhood concerns early in the permitting process and after receiving a Construction Permit application, the Department shall send a request for comment form to all property owners within 200 feet of the applicant's property, and will post the applicant's property with a sign that states the nature of the applicant's proposed Non-Commercial WECS Facility.

1. If the Department has not received any written objections during the 21 days following the latest date of either the posting or of the mailing of the request for comments, the Department will approve the applicant's request provided all requirements of these rules are met.

2. If any written objections are received, the Department will schedule a public hearing before the next regularly scheduled Commission meeting that allows for 30 day advertised notice.
3. At the public hearing, the Commission will take testimony concerning objections to the proposed Non-Commercial WECS. After hearing and considering all testimony from staff and concerned parties, the Commission will then make a recommendation to the Board to approve, conditionally approve or deny the application.
4. The Board shall conduct a public hearing on the application for a Non-Commercial WECS. The Board may approve, conditionally approve or deny the application at the conclusion of the public hearing based on evidence, comments, and the recommendation from the Commission. Notice of the hearing shall be provided in the same manner as for an application for a public hearing.

e. Penalties and Violation of Non-Commercial WECS Facility Permit

Violations of these regulations for Non-Commercial WECS Facilities shall be enforced in accordance with the Sweetwater County Zoning Resolution and pursuant to Wyoming Statute 18-5-204 through 18-5-206.

f. Fees – Non Commercial WECS Facility Permit Fees

The application fee for a WECS Non-Commercial Construction Use Permit as provided for in this Resolution.

**M. Fees – Commercial WECS Facility**

**1. Commercial WECS Facility Permit Fee**

The fee for a Commercial WECS Facility Permit shall be used to reimburse all staff costs that are incurred to review and process a Commercial WECS Facility Permit Application. The Department shall record all staff time, equipment, and expenses related to persons with the required expertise to review and process a Commercial WECS Facility Permit Application. This shall include, but not be limited to, meetings with County staff, meetings with the BLM and public agencies, completeness review required by County staff following the filing of an Application, review and public hearing preparation and processing. A Reimbursement Account shall be established for the Applicant when a Commercial WECS Facility Permit Application is filed. At the time of filing, the Applicant shall fund the Reimbursement Account in the amount of \$50,000. The Applicant shall provide additional funding to the Reimbursement Account at any time the account becomes less than \$20,000. The Department shall submit periodic invoices to the Reimbursement Account. Any fees remaining in this Reimbursement Account after issuance of a Commercial WECS Facility Permit shall be credited to the Reimbursement Account for a Commercial WECS Facility Construction Permit.

**2. Commercial WECS Facility Construction Permit Fee**

The Permit Fee for a Commercial WECS Facility Construction Permit shall be used to reimburse all staff costs, including vehicle and equipment costs, the value of all staff time allocated to

processing the application, and the expenses reported by any person with particular expertise that is hired to assist the County in reviewing the application and in determining compliance with all requirements of the applicant identified herein. The Department shall record all staff time and equipment required to issue the permit and conduct inspections. This shall include, but not be limited to, meetings with County staff prior to issuing the Construction Permit, meetings with other public agencies prior to issuing the Commercial WECS Facility Construction Permit, and site inspections. A Reimbursement Account shall be established for the Applicant when a Commercial WECS Facility Construction Permit is approved. At the time of permit approval, the Applicant shall fund the Reimbursement Account in the amount of \$50,000. The Applicant shall provide additional funding to the Reimbursement Account at any time the account becomes less than \$20,000. The Department shall submit periodic invoices to the Reimbursement Account.

3. If the applicant fails to provide the required payments to the Reimbursement Account, all efforts and work on the project shall cease.
4. Once all construction has been completed and the project is operational, all fees paid by the applicant remaining in the Reimbursement Account will be returned.