

## State Wind Siting and Zoning Survey

**State:** South Dakota

**Wind siting basics:** A permit from the South Dakota Public Utilities Commission (PUC) is required for electric generating facilities with a capacity over 100 MW.

<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=49-41B-35>

**History of siting authority:** Siting authority created by SD Legislature in SDCL 49-41B (1977)

(<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=49-41B-1>).

SDCL 43-13-21 through 24 (2009) established setbacks for wind turbines

(<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=43-13>).

Draft Model Ordinance for Siting of Wind Energy Systems (2008)

(<http://puc.sd.gov/commission/twg/WindEnergyOrdinance.pdf>).

**Approvals needed:** In addition to the permit from the PUC, approvals are required from the following agencies:

South Dakota Game, Fish & Parks, concerning grasslands, wetlands and wildlife,

<http://gfp.sd.gov/>.

South Dakota State Historic Preservation Office, concerning historically important sites,

<http://history.sd.gov/Preservation/>.

South Dakota Department of Environment and Natural Resources, concerning air and water protection, <http://denr.sd.gov/>.

South Dakota Department of Transportation, [www.sddot.com/](http://www.sddot.com/) – Need is dependent on whether the site will utilize state right-of-way.

Local Government (County/City Commission) – Building permits typically required regardless of project size.

The time frame for obtaining a permit from the PUC is (Binder, 2009):

- Notice of intent filed six months prior to Application for Permit. (Notice of intent process only applies to non-wind energy conversion facilities over 100 MW.)
- Application for Permit filed.
- Public Hearing within 60 Days.
- Decision within six months of receipt of Application (one year for non-wind energy conversion facilities).

**Evaluation criteria:** Evaluation criteria are laid out in SDCL 49-41B

(<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=49-41B>) and ARSD 20:10:22

(<http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=20:10:22>).

“The Public Utilities Commission shall also hear and receive evidence presented by any state department, agency, or units of local government relative to the environmental, social, and economic conditions and projected changes therein”

(<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=49-41B-19>).

**Public input:** Per SDCL 49-41B-16, a public hearing shall be held as close as practicable to the proposed facility's location. Timing requirements usually schedule this about 60 days after the application is filed (<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=49-41B-16>).

**Relationships to other important energy policies or siting and zoning decisions:** None identified.

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Binder, Tim. (21 Oct 2009). *Wind Energy Facility Siting and Permitting in South Dakota*. South Dakota Public Utilities Commission. [www.ndltp.org/events/conference/downloads/10-20Binder.pdf](http://www.ndltp.org/events/conference/downloads/10-20Binder.pdf).

Environmental Law Institute. (10 May 2011). *State Enabling Legislation for Commercial-Scale Wind Power and the Local Government Role*. [www.eli.org/pressdetail.cfm?ID=224](http://www.eli.org/pressdetail.cfm?ID=224).

South Dakota Bat Working Group. (Apr 2009). *Siting Guidelines for Wind Power Projects in South Dakota*. Department of Game, Fish and Parks. <http://gfp.sd.gov/wildlife/docs/wind-power-siting-guidelines.pdf>.

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Wind Resource Assessment Network, *South Dakota* [web page]. Retrieved 1 Jul 2011 from [www.sdwind.com/](http://www.sdwind.com/).

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