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PREFACE

The Wyoming Energy Authority commissioned the preparation of this *Guide to Permitting Wind Energy Projects in Wyoming* for the Wyoming Renewable Energy Coordination Committee for use in reviewing the permitting processes that are required in Wyoming for the development of wind energy projects. This guide outlines the criteria needed to help developers in the navigation of local, state, and federal regulatory and permitting processes, and provides contact information and references to assist in the development of wind facilities in the state. A detailed permitting schedule is provided in Section 7, and a permitting flow chart is provided in Section 8.

This guide addresses four main topics of importance pertaining to developing wind facilities in the state of Wyoming: Site Selection, Local Permitting, State Permitting, and Federal Permitting. Each project is unique in its permitting approach due to a variety of factors including project size. land ownership, and resource impacts. The process of site selection is the first step in development of a wind facility as it identifies the potential project location, permitting schedule, and site concerns. In conjunction with the site selection process, developers should begin state and federal agency consultation and environmental surveys which will inform the developer of any project constraints. The process to lease land from state or federal agencies should begin as soon as possible. If a project triggers review under the National Environmental Policy Act (NEPA), coordination with the federal permitting agency will begin during the environmental survey period. Public utilities, regulated by the Wyoming Public Service Commission, may require a Certificate of Public Convenience and Necessity. State permitting under the Wyoming Industrial Siting Act (WISA) should begin soon after the NEPA process has begun, if applicable. Local permitting should be completed in concurrence with the state WISA permitting process. Following these approvals from federal, state, and local agencies, developers must also obtain any agency specific construction permits. These permits may include permits under the Clean Water Act (if they did not trigger NEPA), stormwater permitting, permits to construct water and sewer systems, utility permits, right-of-way (ROW) permits, and water usage permits. A high-level summary of each is provided below.

Site Selection

Appropriate site selection for wind energy development is key in preventing negative impacts to local sensitive resources and avoiding potential permitting delays. Detailed planning and survey efforts prior to environmental analysis, significant investment, and eventual construction will help identify and avoid problems that may occur, determine sites that are unsuitable for development, and minimize or mitigate impacts that cannot be avoided. Site selection focuses on screening for technical factors regarding the physical suitability and performance of a wind development project. Critical issues analyses and environmental surveys will provide developers important information as they initiate the design phase of the project, and initial coordination with local, state, and federal agencies should commence during this time. Input from the various steps associated with site collection will be incorporated into the final site boundary/facility design and will be used for permitting purposes.

Local Permitting

The local regulatory authorities include counties and municipalities within the state of Wyoming. Wyoming Statute (W.S.) § 18-5-503 identifies application requirements and minimum standards required for permitting wind and solar facilities at the county level. In addition to the statutory requirements, 11 of the 23 counties in the state have also developed their own regulations that go beyond the statutory minimum and may be incorporated as a land use or development permit or

January 2022 Page i



plan review. In general, an application must be submitted to the Board of County Commissioners (BOCC) in the county, or counties, where the facility is located. The BOCC will hold a public hearing no less than 45 days and not more than 60 days after an application is determined complete. The BOCC is required to render a decision within 45 days of the public hearing. A permit will be granted if the BOCC determines that the proposed facility complies with all standards properly adopted by the BOCC and the standards required by W.S. § 18-5-504.

Proposed projects may require additional construction permits and approvals from local officials. This may include a road maintenance agreement, a grading/erosion and sediment control plan review, and a stormwater permit. Owners and developers of a wind energy facility are encouraged to check the regulations in the county or counties where their project is located.

State Permitting

State permitting typically occurs before or concurrently with local permitting processes. The siting and permitting of wind energy developments in the state of Wyoming will typically involve several state agencies. The Wyoming Department of Environmental Quality addresses WISA permit applications (Section 107 or Section 109), Section 401 Water Quality Certification, the Wyoming Pollutant Discharge Elimination System program, permits to construct water and sewer systems, and construction general emission standards. Of these permits, the WISA Section 107 and 109 permits have the longest lead-time requiring a written decision on issuance or denial of the permit within approximately 135 days of filing of an application under WISA Section 109 and within 60 days of the filing an application under Section 107. As part of the WISA permit process, several state agencies have a statutory requirement to review the proposed project. Developers would typically begin consultation with these agencies prior to submittal of a WISA permit such as the Wyoming State Historic Preservation Office. In addition, the Wyoming Public Service Commission has Certificate of Public Convenience and Necessity requirements for regulated public utilities.

Renewable energy development on Wyoming state trust land is under the jurisdiction of the State Board of Land Commissioners and administered through the Wyoming Office of State Lands and Investments. This process should begin prior to submitting a WISA permit. Regulations also allow for preliminary surveying activities through a survey authorization form and Temporary Use Permits for construction activities.

A utility permit from the Wyoming Department of Transportation (WYDOT) would be required for the installation of associated electric transmission facilities on a state highway within the ROW. Permits are also required for vehicles and loads that exceed the statutory limits as described in W.S. § 31-18-801 through W.S. § 31-18-808 and are administered through WYDOT.

The Wyoming Game and Fish Department is the responsible state agency for consultation concerning fish and wildlife species. The Wyoming Game and Fish Department may issue a Special Use Permit to allow special uses of Wildlife Habitat Management Areas when such use does not interfere with the purpose for which the lands and/or waters were acquired or are administered.

The Wyoming Department of State Parks and Cultural Resources provides consultation and permission from the Department Director if crossing a state park property.

Federal Permitting

The lead federal agencies for NEPA in Wyoming will vary depending on several circumstances including funding, location of the project, and the permits that may be required. Several agencies that may be lead agencies for a NEPA analysis of a wind energy project in Wyoming may include: U.S. Department of the Interior (Bureau of Land Management [BLM], National Park Service,



Page ii January 2022

Bureau of Indian Affairs, Bureau of Reclamation); U.S. Department of Agriculture (U.S. Forest Service, Rural Utilities Service); U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service (USFWS); and U.S. Department of Energy. The BLM has a definitive application process codified in the Code of Federal Regulations (43 CFR, Part 2804.12) that will guide a prospective applicant through the permitting process. NEPA requires that an Environmental Impact Statement or, for projects without significant impacts, an Environmental Assessment be prepared for all "major federal actions" that have potential to affect the quality of the human or natural environment, unless agency regulations specify the action to be a categorical exclusion. Western Area Power Administration (WAPA) is one of four power marketing administrations within the U.S. Department of Energy. Construction and operation of a wind energy facility with a gen-tie connection to a transmission line owned at least in part by WAPA would constitute a major federal action, which would trigger NEPA compliance with WAPA as the lead federal agency.

The U.S. Army Corps of Engineers is responsible for administering Section 404 of the Clean Water Act to permit dredge and fill operations in wetlands and other waters of the United States. The Wyoming Regulatory Office, located in Cheyenne, is responsible for administering Section 404 throughout the entire state. U.S. Army Corps of Engineers has two primary permitting options to authorize impacts to aquatics resources associated with wind energy development; nationwide permits or standard permits, also referred to as Individual Permits.

Early project coordination with the State of Wyoming Game and Fish Division and the USFWS is an important consideration for achieving compliance with state wildlife issues and the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and the Endangered Species Act (ESA). The provision under section 7(a)(2) of the ESA requires federal agencies to consult with the USFWS to ensure that actions they fund, authorize, permit, or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitats. Wyoming has significant populations of golden eagles, raptors, bats, and migratory birds that are usually considered challenges in successfully permitting wind energy project plans. Section 10(a)(1)(B) of the ESA allows non-federal parties planning activities that have no federal nexus, but which could result in the incidental taking of listed animals, to apply for an incidental take permit. Issuance of a Special Use Permit to Cross Federal Lands may also trigger additional NEPA requirements for all or portions of renewable energy development projects located on USFWS-managed lands.

The U.S. Federal Highway Administration must be consulted and permits must be secured for utility crossings or encroachments on the National Highway System and/or the Interstate Highway System.

In addition to managing both lands and airspace within Wyoming, the Department of Defense (DOD) also operates two military facilities—the Francis E. Warren Air Force Base located in Cheyenne, and the U.S. Army's Camp Guernsey located in Guernsey. Projects that cross military bases or other lands managed by the DOD, approval from the secretary of the military department that owns the land would be required. If project components are identified in close proximity to a proposed wind facility or within DOD-designated Special Use Airspace or Military Training Route, the developer would work with the appropriate DOD department, DOD Regional Lead, and individual base management to determine the appropriate review process and timeframe.

In compliance with Objects Affecting Navigable Airspace (14 CFR 77), any structures (including wind turbines and associated transmission structures) associated with wind energy projects that may affect navigable airspace (generally any structure more than 200 feet tall and other shorter structures within 20,000 feet of most airports) must file Form 7460-1 (Notice of Proposed Construction or Alteration) with the Federal Aviation Administration (FAA). Given the extensive

January 2022 Page iii

studies that wind turbines require, the FAA recommends that notices be filed with the FAA approximately 8 to 12 months prior to the planned construction date. An applicant must receive a Determination of No Hazard to Air Navigation from the FAA that meets all conditions identified in the determination prior to beginning construction. A supplemental Notice of Actual Construction or Alteration (FAA Form 7460-2) must also be filed with the FAA at least 10 days prior to the start of construction or within 5 days after the construction reaches its greatest height.

While there was no formal permit process or consultation required by the Federal Communications Commission (FCC) that could be identified, an applicant would analyze the most current FCC data available to identify the exact locations of licensed microwave towers and any other sensitive communications facilities. The data would be utilized during the siting process to avoid line-of-sight obstruction by strategic placement of transmission lines and/or substations.

Site Selection	Site Suitability Analysis/Critical Issues Analysis Coordi	
Local Permitting	Pre-Application Develop Meeting Land Use	· · · · · · · · · · · · · · · · · · ·
State Permitting	Agency WISA F Coordination and Applic Environmental (Section Surveys Section	ation Construction 107 or Permits
Federal Permitting	Agency Coordination and Environmental Surveys	A or EIS) Construction Permits



Page iv January 2022

Disclaimer

This document is provided as a summary guide to certain requirements. The agencies listed are the best sources to describe their specific jurisdiction and permit requirements.

Contents

			Page
1	Intr	oduction	1-1
	1.1	Purpose and Objectives	1-1
	1.2	Site Selection	1-2
2	Loc	al Permitting and Regulatory Requirements	2-1
3	Stat	te Permitting and Regulatory Requirements	3-1
		Wyoming Department of Environmental Quality, Industrial Siting Division	
		Wyoming Department of Environmental Quality, Water Quality Division	
		3.2.1 Clean Water Act, Section 401 Water Quality Certification	
		3.2.2 Wyoming Pollutant Discharge Elimination System	3-8
		3.2.3 Permits to Construct Water and Sewer System	
	3.3	Wyoming Department of Environmental Quality, Air Quality Division	3-9
		3.3.1 Construction General Emission Standards	
	3.4	Wyoming Department of Environmental Quality, Land Quality Division	3-9
		3.4.1 Abandoned Mine Lands Division	
		Wyoming Public Service Commission	
	3.6	, , ,	
	3.7	Fire Marshal; Department of Fire Prevention and Electrical Safety	
	3.8	Wyoming Office of State Lands and Investments	
		3.8.1 Survey Authorization Forms	
		3.8.2 Temporary Use Permits	
		3.8.3 Wind Energy Lease Agreements	
	3.9	Wyoming Department of Transportation	3-15
		3.9.1 Wyoming MET Towers Reporting System	3-15
		3.9.2 Utility Permit.	
	2.40	3.9.3 Oversize/Overweight Permits	
	3.10	Wyoming Game and Fish Department	
		3.10.1 Consultation to Identify Fish and Wildlife Concerns3.10.2 Greater Sage-Grouse and Mule Deer and Antelope Migration Corridor	3-10
		Executive Orders	3_10
		3.10.3 Special Use Permit within Wildlife Habitat Management Areas	
	3 11	Wyoming Department of Agriculture Weed and Pest Council	
		2 Wyoming State Historic Preservation Office	
		B Wyoming Department of State Parks and Cultural Resources	
4		eral Permitting and Regulatory Requirements	
4	4.1	National Environmental Policy Act Environmental Impact Statement, Various	4 -1

	Agencies	4-3
4.2	U.S. Department of Energy, Western Area Power Administration	
4.3	U.S. Department of Agriculture	4-6
	4.3.1 Rural Utilities Service	
	4.3.2 U.S. Forest Service	
	4.3.3 U.S. Natural Resources Conservation Service/Farm Services Agency	
4.4	U.S. Environmental Protection Agency	
	4.4.1 Clean Water Act, Section 401—Water Quality Certification	4-10
	4.4.2 Clean Water Act, Section 402—National Pollutant Discharge Elimination	4 10
1 E	System	
4.5	U.S. Army Corps of Engineers	4-11
	United States, Including Wetlands	4-11
4.6	National Historic Preservation Act	
_	U.S. Fish and Wildlife Service	
•••	4.7.1 Wind Energy Guidelines	
	4.7.2 Endangered Species Act	
	4.7.3 Migratory Bird Treaty Act	
	4.7.4 Bald and Golden Eagle Protection Act	
	4.7.5 National Wildlife Refuges	4-19
4.8	U.S. Federal Energy Regulatory Commission and North American Electric	
	Reliability Corporation	
4.9	U.S. Federal Highway Administration	
	4.9.1 Utility Crossings/Encroachments	
	4.9.2 Utility Permit/Road Crossing Permit	
<i>1</i> 10	U.S. Department of Defense	
	U.S. Department of Interior	
4.11	4.11.1 U.S. Bureau of Indian Affairs	
	4.11.2 U.S. Bureau of Land Management	
	4.11.3 U.S. Bureau of Reclamation	
	4.11.4 U.S. National Park Service	
4.12	2 U.S. Federal Aviation Administration	4-31
4.13	B U.S. Federal Communications Commission	4-32
Add	litional Sources of Information for Wind Energy Development	5-1
5.1	American Clean Power Association (Previously American Wind Energy	
	Association)	5-1
5.2	Bureau of Land Management	
5.3	Wyoming Game and Fish Department	
5.4	Natural Resources and Energy Explorer Tool	
5.5	University of Wyoming, School of Energy Resources—Cooperative Extension	
	Service	5-2
5.6	U.S. EPA Guide to Siting Renewable Energy Projects	
5.7	Guide to Permitting Electric Transmission Lines in Wyoming	5-3



5

Page vi January 2022

6 Refere	1ces	6-1
7 Schedu	ıle of Permitting/Consultation Sequence	7-1
8 Permit	ing Flow Chart	8-1
Appendix A	A Maps	
Map 1 – Wy	oming Annual Average Wind Speed at 80 Meters	
•	nd Resources, Exclusions, and Resource Sensitivities on BLM-Administe yoming	red Lands in
Map 3 – Wy	oming Class 4+ Winds Wind Development Environmental Conflicts	
	Tables	
Table 2-1.	Wyoming Counties and Permitting Processes	2-2
Table 3-1.	State of Wyoming Permit, Approval, and Coordination Requirements	3-1
Table 3-2.	WGFD Wildlife Habitat Management Areas	3-20
Table 4-1.	Federal Requirements, Permits, and Consultation	4-1
Table 4-2.	NEPA Permitting Scenarios	
Table 4-3.	USFS Jurisdictions within Wyoming	
Table 4-4.	Federally Recognized Tribes and Tribes with Traditional Use Areas	

BLM-Managed Wilderness Study Areas......4-27

Bureau of Reclamation Jurisdictions4-28

National Park Service Sites in Wyoming4-29

Table 4-5.

Table 4-6. Table 4-7.

Acronyms and Abbreviations

ACEC Area of Critical Environmental Concern
BGEPA Bald and Golden Eagle Protection Act

BIA U.S. Bureau of Indian Affairs
BLM Bureau of Land Management
Board Board of Land Commissioners
BOCC Board of County Commissioners

BOR U.S. Bureau of Reclamation
CFR Code of Federal Regulations
CGP Construction General Permit

CPCN Certificate of Public Convenience and Necessity

CWA Clean Water Act

DOD Department of Defense

DOE U.S. Department of Energy

EA Environmental Assessment

EIS Environmental Impact Statement

EPA U.S. Environmental Protection Agency

ESA Endangered Species Act

FAA Federal Aviation Administration

FCC Federal Communications Commission

FERC U.S. Federal Energy Regulatory Commission

FHWA Federal Highway Administration

FSH Forest Service Handbook

GIS geographic information system

ISC Industrial Siting Council
ISD Industrial Siting Division

LCGP Large Construction General Permit

MBTA Migratory Bird Treaty Act
MET tower meteorological tower

MW megawatts

NEPA National Environmental Policy Act

NERC North American Electric Reliability Corporation

NFS National Forest Service

NHPA National Historic Preservation Act

NHT National Historic Trail

NOI Notice of Intent

NPDES National Pollutant Discharge Elimination System



Page viii January 2022

NPS U.S. National Park Service

NRCS Natural Resources Conservation Service
NREX Natural Resource and Energy Explorer

NWP nationwide permit

NWR National Wildlife Refuge

OSLI Office of State Lands and Investments

PEIS Programmatic Environmental Impact Statement
RECC Renewable Energy Coordination Committee

RMP Resource Management Plan

ROW right-of-way

RUS Rural Utilities Service

SGCN Species of Greatest Conservation Need

SHPO Wyoming State Preservation Office

SPCC Spill Prevention Control and Countermeasure

SUP Special Use Permit

SWPPP Stormwater Pollution Prevention Plan

USACE U.S. Army Corps of Engineers
USDA U.S. Department of Agriculture

USFS U.S. Department of Agriculture, Forest Service

USFWS U.S. Fish and Wildlife Service

WAPA Western Area Power Administration

W.S. Wyoming Statute

WDEQ Wyoming Department of Environmental Quality

WEA Wyoming Energy Authority

WECS Wind Energy Conversion System

WEG Wind Energy Guidelines

WGFC Wyoming Game and Fish Commission
WGFD Wyoming Game and Fish Department

WISA Wyoming Industrial Development Information and Siting Act

WoUS waters of the United States

WPSC Wyoming Public Service Commission

WQD Water Quality Division WSA Wilderness Study Area

WSEO Wyoming State Engineer's Office

WWPC Weed and Pest Council

WYDOT Wyoming Department of Transportation

WYSPCR Wyoming Department of State Parks and Cultural Resources

Page ix

1 Introduction

1.1 Purpose and Objectives

This guide, originally published in 2012, was developed to provide guidance in understanding the permitting processes that are required in Wyoming for the development of wind energy projects. The Wyoming Energy Authority (WEA) requested that Tetra Tech and the Wyoming Renewable Energy Coordination Committee (RECC) update this guide in 2021 to ensure all information is accurate and up to date.

The RECC consists of state and federal agencies working together to share data and resources associated with renewable energy generation and transmission facilities. The following agencies are represented on the RECC:

- Wyoming Energy Authority;
- · Wyoming Governor's Office;
- Wyoming Department of Environmental Quality (WDEQ), Industrial Siting Division (ISD);
- Wyoming Office of State Lands and Investments (OSLI);
- Wyoming Game and Fish Department (WGFD);
- Wyoming County Commissioners Association;
- U.S. Bureau of Land Management (BLM) Wyoming State Office Lands, Realty and Renewable Energy Branch;
- U.S. National Park Service (NPS); and
- U.S. Fish and Wildlife Service (USFWS).

Today, U.S. land-based wind power capacity totals 125 gigawatts, making it the third-largest source of electricity generation capacity in the country (CleanPower 2021). According to the U.S. Department of Energy's Office of Energy Efficiency and Renewable Energy, Wyoming has projected a total wind capacity of 11.46 gigawatts by 2050 (DOE 2015). Map 1 in Appendix A provides Wyoming's annual average wind speed at 80 meters. Areas with annual average wind speeds around 6.5 meters per second and greater at 80-meter height are generally considered to have a resource suitable for wind development. According to this map, more than half of the State of Wyoming ranges from 6.5 meters per second to over 10.5 meters per second of annual average wind speed at 80 meters. As such, Wyoming is an ideal location for wind generation in the United States.

In 2020, about 15 percent of the electricity in Wyoming was generated through renewable energy sources, with wind power accounting for four-fifths of the state's renewable electricity (USEIA 2021). The amount of wind powered-generating capacity installed in Wyoming nearly doubled in 2020 to almost 1,800 megawatts (MW). Several more wind projects are in development or under construction, including the 3,000-megawatt Chokecherry-Sierra Madre (mixed federal and private



lands) project with about 900 turbines in south-central Wyoming. These wind projects will require planning, consultations, processing of permit applications, coordination, and environmental review by local, state, and federal agencies. Wyoming remains a great location for wind generation in the United States.

In fiscal year 2018, the Wyoming Office of State Lands and Investments (OSLI) saw a 25-percent increase in the number of acres leased for wind energy in the state. In a jointly funded effort led by the U.S. Department of Energy (DOE) Wind Energy Technologies Office via the Lawrence Berkeley National Laboratory Electricity Markets and Policy Group, the U.S. Geological Survey Energy Resources Program, and the American Wind Energy Association, the United States Wind Turbine Database provides the locations of land-based and offshore wind turbines in the United States, corresponding wind project information, and turbine technical specifications. The most current datasets for this information are available on the U.S. Geological Survey website at: https://eerscmap.usgs.gov/uswtdb/.

The new Federal Administration's Energy Act of 2020 includes the goal of permitting at least 25,000 MW of renewable energy by 2025 and the establishment of Renewable Energy Coordination Offices in 2021. Wyoming will be the focal point of a regional office that will facilitate, coordinate, and streamline processes aimed at permitting more environmentally sustainable wind energy projects in Wyoming. Plans are underway to conduct a Programmatic Environmental Impact Statement (PEIS) for the 368 Corridor Initiative, develop new rule-making authority to revise the permitting of rights-of-way (ROWs) grants for renewable energy, refine processes, and support coordination efforts with federal and state partners.

1.2 Site Selection

Appropriate site selection for wind energy development is key in preventing negative impacts to local sensitive resources and avoiding potential permitting delays. Detailed planning and survey efforts prior to investment and eventual construction will help identify and avoid problems that may occur, determine sites that are unsuitable for development, and minimize or mitigate impacts that cannot be avoided. Ultimately, the authority to make land management decisions and approve individual wind projects rests with regulatory and surface management agencies.

BLM's West-Wide Wind Mapping Project maps wind energy resources on public lands and identifies existing land use exclusions and other potential resource sensitivities that may affect wind energy development opportunities. This map is included for reference in Appendix A, Map 2, and an interactive version is available on BLM's website at: https://bogi.evs.anl.gov/wwmp/portal/. In addition, the Wyoming Governor's Office, in coordination with state and federal agencies, has mapped environmental constraints for wind development in all portions of the state reported by the National Renewable Energy Laboratory to have Class 4 or better winds. A copy of this map is included as Appendix A, Map 3.

The exhibit on the next page provides general guidance on the site selection process and certain aspects developers should be aware of as they begin their project reviews.



Page 1-2 January 2022

STEP 1: Review of Wind Resources and Transmission Capacity Analysis	 Screen for technical factors about the physical suitability and performance of wind development and consider any economic factors that may affect investments. A comprehensive study should be conducted to consider all the viable interconnection options followed by a comprehensive planning and designing phase to ensure reliable and economical operation of the power system.
STEP 2: Site Suitability Analysis/Critical Issues Analysis	 Begin the process of reviewing the potential wind development area for site concerns including but not limited to property ownership, land use, zoning, wildlife, surface and ground water, vegetation, habitat management areas, and general permitting requirements. Begin the process of coordinating with local, state, and
	federal agencies, as needed.
STEP 3: Site Visits/Data Collection	 Concurrently with the site suitability analysis/critical issues analysis, project developers should also begin conducting site visits and obtaining onsite and geospatial data for a better understanding of the resources in the area and potential areas of concern. This information will help inform the preliminary engineering/conceptual layout and project schedule.
STEP 4: Preliminary Engineering/ Conceptual Layout	 Results from Steps 2 and 3 will be incorporated into a preliminary engineering design. This will be used to facilitate conversations with agencies who will provide input in the early planning and siting phase.
STEP 5: Public/Agency Meetings	Depending on the regulatory process, public and agency meetings and notifications should be initiated for the project.
	Based on the results from Steps 2 through 5.
STEP 6: Environmental Surveys	 Agency consultation highly recommended to begin as soon as possible. The WGFD recommends that project developers consult with WGFD during preliminary project planning and at least 2 years prior to initiating project construction.
STEP 7: Site Boundary/Facility Refinement	 Input from Steps 2 through 6 will be incorporated into the final site boundary/facility design. This will be used for permitting purposes.
STEP 8: Local, State, and Federal Permitting	This guide contains Wyoming-specific information related to local, state, and federal permitting processes, helpful contact information, and references to assist in the development of wind facilities in the state and includes a detailed permitting schedule (Section 7) and a permitting flow chart (Section 8).

Project developers should consider consulting with local, state, and federal agencies early in the site selection process so that appropriate studies can be conducted and site-specific recommendations can be developed. Early consultation with agencies is the best means available for developers to determine potential concerns specific to their project such as property zoning, setbacks, wildlife and habitat management areas, and migration corridors. Failure to consult with agencies during this period could result in potential project permitting delays. Agencies to consider contacting early in the consultation period include the following:

Federal Agencies

- U.S. Fish and Wildlife Service (USFWS)
- U.S. Army Corps of Engineers (USACE)
- U.S. Forest Service (USFS)
- o U.S. Department of Agriculture (USDA)
- U.S. National Park Service (NPS)
- o BLM Wyoming State Office Lands, Realty and Renewable Energy Branch
- U.S. Federal Aviation Administration (FAA)
- o Federal Communications Commission (FCC)

State Agencies

- WDEQ
- Wyoming Public Service Commission (WPSC)
- Wyoming State Engineer's Office (WSEO)
- Wyoming Office of State Lands and Investment (OSLI)
- Wyoming Department of Transportation (WYDOT)
- Wyoming Game and Fish Department (WGFD)
- Wyoming State Preservation Office (SHPO)
- Wyoming Department of State Parks and Cultural Resources (WYSPCR)

Local Agencies

- Planning and Zoning Departments
- Public Utility Departments
- Highway Departments
- County/Municipality Commissioners

Data collection also plays a major role in developing an accurate assessment of a project. In addition to direct consultation with agencies, project developers should consider reviewing the Natural Resource and Energy Explorer (NREX) first. NREX is a web-based geographic information system (GIS) software tool that supports pre-planning development considerations by enabling discovery, analysis, and assessment of energy, environmental, cultural, socioeconomic, and infrastructural assets for user-defined, project-scale areas of interest in the state. The NREX application is designed to provide public access to credible geographic data and information maintained by state agencies. NREX can be accessed at the following link: https://nrex.wyo.gov/.



Page 1-4 January 2022

2 Local Permitting and Regulatory Requirements

The local regulatory authorities include counties and municipalities within the state of Wyoming. In Wyoming, commercial and non-commercial wind projects consisting of an individual wind turbine or multiple turbines that generate more than 0.5 MW of electricity are under the permitting jurisdiction of local county permitting requirements. Commercial wind projects consisting of 20 or more turbines, regardless of construction costs, are under the jurisdiction of the state and/or federal government (see **Sections 3 and 4**, respectively). Wind power projects on federal lands, regardless of size or construction costs, are under the jurisdiction of the federal government (see **Section 4**).

According to Wyoming Statute (W.S.) § 18-5-502(a) "It is unlawful to locate, erect, construct, reconstruct, or enlarge a facility without first obtaining a permit from the board of county commissioners in the county in which the facility is located." W.S. § 18-5-503 identifies application requirements and minimum standards required for permitting wind facilities at the county level. W.S. § 18-5-501 defines a wind facility as "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 lands where the owner or developer has rights to erect wind turbines". In addition to the statutory requirements, many counties have also developed their own regulations that go beyond the statutory minimums (see below). Owners and developers of a wind energy facility are encouraged to check the regulations in the county or counties where their project is located. The permitting process is outlined in W.S. § 18-5-505, and is described below.



Under W.S. § 18-5-505, owners or developers of a wind facility must submit an application to the Board of County Commissioners (BOCC) in the county, or counties, where the facility is located. The BOCC receives applications and conducts a review to determine whether it meets all requirements required by W.S. § 18-5-503 and any applicable rules and regulations, including minimum standards outlined in W.S. § 18-5-504. The BOCC will determine whether the application is complete within 30 days of receipt of the application. The BOCC will notify applicants of any specific deficiencies in the application, and the applicant will have 30 days to provide the

BOCC with the additional information. The BOCC will hold a public hearing no less than 45 days and not more than 60 days after an application is determined complete. The BOCC is required to render a decision within 45 days of the public hearing. A permit will be granted if the BOCC determines that the proposed facility complies with all standards properly adopted by the BOCC and the standards required by W.S. § 18-5-504. No permit will be granted if the application is incomplete or if all notices required by W.S. § 18-5-503 have not been provided in a timely manner. The contents for the application under Title 18 may be located through the following

January 2022 Page 2-1



Wyoming Legislative Service Office website:

http://legisweb.state.wy.us/statutes.aspx?file=titles/Title18/T18CH5AR2htm. If the BOCC denies the permit, an applicant may appeal that decision to the district court pursuant to W.S. § 18-5-508.

According to W.S. § 18-5-509, the BOCC may refer an application for a wind facility to the Wyoming Industrial Siting Council (ISC) if:

- The wind facility does not meet the definition of an industrial facility as defined in W.S. § 35-12-102(a)(vii)(E); and
- The BOCC finds there are potentially significant adverse environmental, social, or economic issues that the BOCC does not have the expertise to consider or authority to address.

Applications referred to the ISC for additional permitting will be consistent with the requirements of the Wyoming Industrial Development Information and Siting Act (WISA), W.S. § 35-12-101 through § 35-12-119. Referrals to the Industrial Siting Division (ISD) shall be made within 30 days after an application is determined to be complete.

An application fee may be charged and shall not exceed the reasonably anticipated costs of processing the application and conducting public hearings (W.S. § 18-5-513(a)). In addition, the BOCC also may collect a reasonable building permit fee not to exceed the reasonable anticipated administrative costs of issuing the building permit and overseeing compliance with permit conditions and requirements (W.S. § 18-5-513(b)).

Wyoming currently has 23 counties and 99 incorporated municipalities. Eleven counties (Albany, Campbell, Carbon, Converse, Crook, Goshen, Laramie, Lincoln, Natrona, Sweetwater, ad Uinta) have adopted regulations specific to wind energy development pursuant to W.S. § 18-5-501 through 18-5-513. The remaining counties require developers to comply with standard application procedures. Applicable permitting processes for each Wyoming county and the corresponding county contact information is provided in **Table 2-1**.

A developer should consult the county or counties in which development will occur for additional permitting information.

Table 2-1. Wyoming Counties and Permitting Processes

County	Permitting Process	Contact Information
Albany	Permits: Wind Energy Conversion System (WECS) Project Permit required. Fees: \$300 per turbine; \$100 notice fee for filing a development proposal; applicant bears the cost associated with notifying adjacent property owners (property owners within a 5-mile radius of the project's exterior boundary). Time Frame: Approximately 3 to 4 months Comments: Applicants must adequately address economic and social impacts, air quality, water quality, general nuisances (e.g., heat, noise, vibration, etc.), soil disturbance, and wildlife and cultural impacts. Road use agreement is required when using a county road.	(307) 721-2568 County website: http://www.co.albany.wy.us
Bighorn	Permits: Utility and/or access permits may be required if the project is tying into existing utilities or county roads. Development permit may be required. Fees: \$30 for development permit Time Frame: up to 1 week	(307) 568-2424 County website: http://www.bighorncountywy.gov



Page 2-2 January 2022

County	Permitting Process	Contact Information
Campbell	Permits: WECS Use Permit required.	(307) 685-8061
·	Fees: \$200 per turbine.	County website:
	Time Frame: Approximately 3 to 4 months.	http://www.ccgov.net
	Comments: Applicant may be required to enter into a road use agreement.	
	Prior to commencement of construction, all other permits shall be obtained,	
	including but not limited to, building permit, road access and other permits from	
	the Public Works Department, Road and Bridge Department, and WYDOT.	
Carbon	Permits: Commercial WECS Conditional Use Permit.	(307) 328-2651
	Fees: \$100 application fee plus fee per number of wind turbines (refer to	County website:
	current Planning and Development Department fee schedule); and actual cost	www.carbonwy.com
	of public notice charges.	,
	Time Frame: Approximately 3 to 5 months.	
	Comments: Preapplication meeting required with Planning and Development	
	Department staff and other county department officials. Applicants are advised	
	to consult with WGFD during initial site selection and seek comments from	
	SHPO. Applicant may be required to enter into road use agreement(s) and	
	obtained appropriate permit(s). Prior to issuance of a building permit, obtain	
	new access, modification or change of use of access permit; utility crossing	
	permits from WYDOT or applicable agency for impacts to any federal, state or	
	county highway/road facility. Obtain any applicable weight or size permit(s)	
	from appropriate agency. Refer to Commercial Scale Energy Facilities –	
	Commercial Scale Wind Energy Facilities Section for specific standards and	
	regulations.	
Converse	Permits: Wind Energy Permit required.	(307) 358-1990
	Fees: \$5,000 or \$250 per wind turbine, whichever is greater.	County website:
	Time Frame: Approximately 3 to 5 months.	http://conversecounty.org
	Comments: Applicant may be required to enter into a road use agreement.	
Crook	Permits: Permit pursuant to the Crook County Wind Energy Facility	(307) 283-4548
	Resolution.	County website:
	Fees: \$2,000 per wind turbine. A process and building permit fee may be	http://www.crookcounty.wy.gov
	applicable.	
	Time Frame: No more than 30 days for initial review of application. Typically	
	90 to 120 days required from notice of application completeness to final	
	decision by the BOCC (includes time for public notice and hearing before the	
	BOCC).	
Fremont	No permitting or zoning for wind facilities. Consult county for additional	(307) 332-1077
	information.	County website:
		http://fremontcountywy.org
Goshen	Permits: WECS Use Permit pursuant to Appendix H of the Goshen County	(307) 532-3852
	Land Use Plan (Wind Energy Siting Regulations).	County website:
	Fees: \$5,000 or \$250 per tower, whichever is greater.	http://goshencounty.org
	Time Frame: Approximately 4 to 5 months.	
	Comments: Preliminary plan required; Industrial Road Use Agreement	
	required.	
Hot Springs	Permits: Land Use Change Permit required.	(307) 864-2961
. 5	Fees: There are no fees associated with the permits; however, applicants are	County website:
	responsible for incurring costs for public notices, including advertising for public	http://www.hscounty.com
	hearings and notifying immediate property owners of the project.	, , , , , , , , , , , , , , , , , , , ,
	Time Frame: Typically, 8 to 12 weeks needed for permitting process.	
Johnson	No permitting or zoning for wind facilities. Consult county for additional	(307) 684-1907
	information. County would permit facility by resolution once all state	County website:
	requirements met.	http://www.johsoncountywyomi
	:	

County	Permitting Process	Contact Information
Laramie	Permits: Wind Energy Permit and site plan are required. Site plans are reviewed by the Planning Commission first and then the BOCC. Upon approval of the site plan, the applicant may then submit a Wind Energy Permit application to the Laramie County Planning and Development Office. Fees: Fees are required for both the site plan review and Wind Energy Permit which are determined by the BOCC. Time Frame: Following BOCC approval of a site plan, the owner shall have 3 years to apply for a Wind Energy Permit. The Laramie County Planning and Development Office shall issue the Wind Energy Permit within 21 days of application submittal if the application meets the requirements and conditions in the approved site plan. Comments: Applicants shall meet with the Planning and Development Office representative prior to submittal of a site plan. Applicants are strongly encouraged to contact the Cheyenne Regional Airport Manager and the Pine Bluffs Municipal Airport Manager concerning airport operations. A building permit is required prior to the commencement of construction.	(307) 633-4303 County website: http://www.laramiecounty.com
Lincoln	Permits: Commercial Wind Permit required. Approval by Planning and Zoning Commission and BOCC. Fee: Established by the BOCC. Comments: A pre-application conference with Lincoln County Planning staff is required. Special studies may be required during the pre-application meeting to evaluate specific impacts of the project on the community or area. Studies may include, but are not limited to, economic, fiscal, transportation and environmental issues.	(307) 877-9056 County website: http://www.lcwy.org
Natrona	Permits: WECS Project Conditional Use Permit required. WECS projects are only allowed in the following Zoning Districts: Ranching, Agricultural and Mining, Urban Agricultural, and Use Control Area. Fees: \$300 application fee. Time Frame: Approximately 60 days needed. Comments: A pre-application conference is required with the Development Department representatives. Applicant shall provide proof to the Development Department of delivery of the proposed WECS project site plan and project summary to public and commercial aviation service providers in Natrona County. New access, access modification, or change of use of access permit; utility crossing permits from WYDOT; weight and size permits and/or other permits maybe required for the use of county, municipal, or state road(s). Applicant to consult within 30 days of permit issuance, with the Natrona County Road and Bridge Department for determination by the Department of whether a maintenance agreement is required.	(307) 235-9200 County website: http://www.natrona.net
Niobrara	Permits: Change of Zoning Permit. Fees: \$40 application fee. Timeframe: Approximately 2 months. Comments: Permits will be reviewed by the Planning and Zoning (P&Z) Commission. The P&Z meets once a month on the 3rd Monday. If approved, the P&Z will recommend the application to the BOCC for review. The BOCC will hold a public hearing. Notice must be published in the local newspaper 2 weeks prior to the public hearing.	(307) 334-2211 County website: http://niobraracounty.org



Page 2-4 January 2022

County	Permitting Process	Contact Information
Park	Permits: Private wind turbines not more than 35 feet in height are considered a minor utility use and require a Building/Zoning Permit in all zoning districts. Commercial wind projects and private wind turbines over 35 feet in height are considered major utility uses and require a Special Use Permit (SUP) in all zoning districts except industrial where a Building/Zoning permit is required. Site plan review is required for any major utility use that involves construction of any building that exceeds 5,000 square feet of floor area and/or for development of more than 1 acre of land for a land use without buildings. An SUP may be obtained prior to site plan approval or processed concurrently. There are also special standards for both non-commercial and commercial wind turbine uses. Fees: SUP: \$300 application fee plus costs for public hearing notices. Site Plan: \$300 application fee plus costs for public hearing notices (waived if processed concurrently with SUP application). Time Frame: Typically requires 2 to 3 months. Comments: Proposed projects in an airport overlay district may require additional review and approval from airport officials. A road maintenance agreement may be required. A pre-application conference is recommended. Relevant agencies (e.g., WGFD, BLM, USFS, fire warden, conservation	(800) 786-2844 ext. 8540 County website: http://www.parkcounty.us
Platte	districts, etc.) are notified of projects requiring an SUP and/or site plan review. Permits: SUP required. A Preliminary Plan Review Application is recommended but not required. Fees: Pre-application Review is \$60/hour; SUP fee is \$250 plus a \$250 fee for sign and publication and actual cost of engineering/other professional review; Project-Building Certificate fee is 0.5% of the project cost. Comment: Building Permit, Road Access Permit, Road Use Agreement, Utility Crossing Permit, Weight, or Size permits, and/or other required permits may be required prior to the commencement of construction.	(307) 322-1341 County website: http://www.plattecountywyoming.com
Sheridan	Permits: Conditional Use Permit would be required. Fees: \$475 fee. Time Frame: Approximately 3 to 4 months. Comments: A road use agreement may be required.	(307) 674-2920 County website: http://www.sheridancounty.com
Sublette	Use is not allowed within Sublette County.	(307) 367-4372 County website: http://www.sublette.com
Sweetwater	Permits: Commercial WECS Facility Permit would be required. Fee: Applicant pays into the Sweetwater County Wind Project Expense Reimbursement account, the amount of money the Board estimates to recover all Sweetwater County Costs. Fees may also be applied to recover the cost of construction permit administration, inspections, monitoring, and the cost of overseeing compliance with permit conditions and requirements. Comments: All applicants are required to prepare and submit to Sweetwater County an Environmental Report (unless a published draft EIS pursuant to NEPA has been completed then the applicant may apply for a waiver of some or all of the Environmental Report requirements).	(307) 872-3914 County website: http://www.sweet.wy.us

County	Permitting Process	Contact Information
Teton	Permits: Utility facilities require Conditional Use Permits in all zones except for the Business Park where a Basic Use Permit is required. Fees: \$2,500 for a Conditional Use Permit unless the application is submitted concurrent with another application requiring a public hearing, in which case the Conditional Use Permit fee is \$500; \$500 for a Basic Use Permit; application fee for a variance concurrent with another application requiring public hearing is \$500. Time Frame: Conditional Use Permit 4 to 6 months/ Basic Use Permit 5 to 9 weeks. Comments: Pre-application conferences are required prior to Conditional Use Permit submittals. Environmental Analysis and/or Visual Resource Analysis may also be required for both Conditional Use Permit and Basic Use Permit. Also, important to consider the physical development limitations of the zone, including height limitations. An application for Conditional Use Permit would likely require a concurrent application for a Variance to the Height standards. There can be additional requirements for a Development Plan if the proposal includes the construction of a certain amount of non-residential floor area. See zone specific standards.	(307) 733-3959 County website: http://www.tetonwyo.org
Uinta	Permits: Wind Energy Facility Land Use Certificate Fees: \$500 fee to cover administrative costs; \$1000 plus \$100 per tower. Time Frame: Approximately 3 to 6 months.	(307) 783-0318 County website: http://www.uintacounty.com
Washakie	No permitting process for wind facilities. Consult county for additional information.	(307) 347-6778 County website: http://www.washakiecounty.net
Weston	No permitting process for wind facilities. Consult county for additional information.	(307) 746-9497 County website: http://westongov.com



Page 2-6 January 2022

3 State Permitting and Regulatory Requirements

State permitting typically occurs before or concurrently with local permitting processes (**Section 7**); in some cases, the local BOCC may refer an application for a wind facility to the ISC according to specifications under W.S. § 18-5-509. The siting and permitting of wind energy developments in the state of Wyoming will typically involve several state agencies, including the WDEQ, WPSC, Wyoming OSLI, WYDOT, WGFD, Wyoming SHPO, and the WYSPCR. **Table 3-1** lists these and other agencies and the applicable permits, forms, and/or consultations they require for projects in the state.

Table 3-1. State of Wyoming Permit, Approval, and Coordination Requirements

Agency	Study/Permit/Coordination	Contact Information
WDEQ, ISD	WISA Permit Application (Section 107 or Section	(307) 777-7937
	109)	http://WDEQ.state.wy.us/isd/
WDEQ, Water Quality	Section 401 Water Quality Certification	(307) 777-7937
Division	Myamina Dallytant Disabarsa Elimination Cystem	http://deq.wyoming.gov/wqd/
	Wyoming Pollutant Discharge Elimination System, Large Construction General Permit (WYR10- 0000) and stormwater pollution prevention plan	
WDEQ, Air Quality	Consultation with WDEQ for compliance with	(307) 777-7391
Division	Construction General Emission Standards	http://deq.wyoming.gov/aqd/
WDEQ, Land Quality	Permits for mining and extraction of aggregate	(307) 777-7937
Division	(W.S. § 35-11-401(a))	http://deq.wyoming.gov/lqd/
WPSC	Certificate of Public Convenience and Necessity	(307) 777-7427
	for regulated public utilities under W.S. § 37-1- 101(a)(vi)	https://psc.wyo.gov/
Wyoming State Engineer	Supervision of waters of the State (Article 8	(307) 777-5063
	Section 5 of Wyoming Constitution)	http://seo.wyo.gov/ground-water
Fire Marshal, Department	Jurisdiction over electrical features when facility	(307) 777-7288
of Fire Prevention & Electrical Safety	not regulated by WPSC (W.S. § 35-9-120 and Section 90-2 of International Electrical Code)	http://wsfm.wyo.gov/
Wyoming OSLI	Wind Energy Lease	(307) 777-5762
	Survey Authorization Form	(307) 777-2980
	,	https://lands.wyo.gov/
	Temporary Use Permit	
WYDOT	Utility Permit	(307) 777-4176
	Self-Issue Oversize Permit	http://www.dot.state.wy.us/home/engineering_ technical_programs/utilities_section.default.html
		Toll-Free 1-888-570-9908
	Registration of Meteorological (MET) Towers	http://www.dot.state.wy.us/home/trucking_
		commercial vehicles/commercial permits.html

January 2022 Page 3-1



Agency	Study/Permit/Coordination	Contact Information
WGFD	Consultation to Identify Special Status Species of Concern, Terrestrial and Aquatic Wildlife and Habitat, and Monitoring Recommendations Monitoring Plan Development SUP for crossing Wildlife Habitat Management Area	(307) 777-4506 https://wgfd.wyo.gov/Habitat/Habitat-Protection- Program
Wyoming Department of Agriculture Weed and Pest Control	Wyoming Department of Agriculture Weed and Pest Control Act of 1973 Consultation for Noxious Weeds	(307) 777-6585 https://wyoweed.org/
Wyoming SHPO	Determination of Compliance with state and national historic properties under the National Historic Preservation Act Section 106	(307) 777-7697 https://wyoshpo.wyo.gov/
WYSPCR	Consultation and permission from the agency director if project crosses WYSPCR property	(307) 777-7496 http://wyospcr.state.wy.us/

3.1 Wyoming Department of Environmental Quality, Industrial Siting Division

The WDEQ ISD administers the WISA (W.S. § 35-12-101:119) and the Rules and Regulations of the ISC, Chapters 1 and 2. The ISC is a seven-member council created through W.S. § 35-12-104 that reviews the socioeconomic and environmental impacts of planned industrial development facilities before making a decision on the issuance of a permit for construction and operation of a facility. The ISC must find that the proposed industrial facility will comply with all applicable local, state, and federal law throughout each phase of planning, construction, and operation.

The WISA permit application addresses the project description, location, schedule, socioeconomic baseline conditions, an analysis of the potential socioeconomic impacts with the area of impact, and potential environmental impacts. To minimize or prevent duplication of efforts, the WISA permit, the county permit, and the federal agency sometimes use common information for their distinct and unique permits. The WISA regulations allow for common data to be submitted as part of the application as long as it meets the application requirements and format.

A wind energy project that meets the definition of an "industrial facility", as defined in W.S. 35-12-102(a)(vii)(E), will require a WISA permit from the ISC. Wind facilities meeting the following criteria require a permit:

- (E) Any commercial facility generating electricity from wind and associated collector systems that:
 - (I) Consists of twenty (20) or more wind turbines in all planned phases of the installation; or
 - (II) Expand an existing installation not previously defined as a facility to include a total number of turbines greater than or equal to the thresholds in subdivision (a)(vii)(E)(I) of this section.

Additionally, any facility meeting the definition in W.S. 35-12-102(a)(vii)(F) would require a WISA permit:

(F) Any facility over which a board of county commissioners has authority to issue the permit required by W.S. § 18-5-502 (County Regulation of Wind or Solar Energy



Page 3-2 January 2022

Projects) and which facility the BOCC has referred to the council under W.S. § 18-5-509.

Associated "collector systems," as defined in W.S. § 35-12-102(a)(xiv), that are also subject to permitting by the ISD, include:

...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.

If a WISA permit is required, it must be obtained prior to the start of construction, with the exception of changes needed for temporary use (i.e., less than 90 days) of the site (W.S. § 35-12- 102(a)(iii)(A)). Changes needed for temporary use include changes required to: conduct required studies and tests or any state or federal act or regulation; construct access roads and services associated with utilities; construct routes for nonutility purposes; or for uses in securing geological data. Guidance can be obtained from the ISD for site testing and modifications.

Under W.S. § 35-12-110 of the WISA, the ISD is required to obtain information and recommendations from the following state agencies as it applies to their area of expertise:

- (i) Wyoming department of transportation;
- (ii) Public service commission;
- (iv) Game and fish department;
- (v) Department of health;
- (vi) Department of education;
- (vii) Office of state engineer;
- (ix) Wyoming state geologist;
- (x) Wyoming department of agriculture;
- (xi) Department of environmental quality;
- (xiv) The University of Wyoming;
- (xvi) Department of revenue;
- (xvii) The Wyoming business council;
- (xviii) Department of workforce services;
- (xix) Office of state lands and investments;
- (xx) Department of state parks and cultural resources;
- (xxi) Department of fire prevention and electrical safety;

To save time upfront during the ISC process, developers should reach out to a few key agencies included in the ISC permitting process review to discuss the project proposal. These agencies are available to help work through any questions in advance to help the application review process.

- (xxii) Department of family services;
- (xxiii) Oil and gas conservation commission.

Counties and other local governments may participate as parties to the permit, examine the application, and request permit conditions. In addition, any person entitled to receive an application under W.S. § 35-12-110(a)(i), including affected landowners, may also participate as parties to the permit. "Affected Landowners" is defined under W.S. § 35-12-102(a)(xv) as persons holding record title to land on which any portion of a commercial facility generating electricity from wind energy is proposed to be constructed and any portion of any collector system located on those same lands. A list of all affected landowners with an address at which each landowner can be given notices required by the act are provided to the ISC as required under Sections 107 and 109.

W.S. § 35-12-119(c) lists activities exempt from a WISA permit. Activities that may be exempt and that are specific to a commercial facility generating electricity from wind energy may include:

- (i) Electric transmission lines with a maximum operating voltage of less than one hundred sixty thousand (160,000) volts, except:
- (A) Any collector system, regardless of voltage, associated with a commercial facility generating electricity from wind and which meets the definition of an industrial facility pursuant to W.S. § 35-12-102(a)(vii)(E) and (F) shall not be exempt;
- (B) A commercial facility generating electricity from wind that is exempt from W.S. § 35-12-102(a)(vii)(E) or (F) shall not become subject to this chapter because its collector system is greater than one hundred sixty thousand (160,000) volts.

For facilities permitted under W.S. § 35-12-102(a)(vii)(E) or (F), a site reclamation and decommissioning plan and a financial assurance plan are required pursuant to W.S. § 35-12-105(d) and (e). The site reclamation and decommissioning plan are to ensure the proper decommissioning and interim and final site reclamation of commercial facilities generating electricity from wind energy. The site decommissioning and reclamation plan and its cost are

proposed by the applicant, subject to review and approval by the Director of the WDEQ and the WDEQ Bonding Program, and updated and submitted to the ISD every 5 years. The financial assurance plans provide assurances that the permitted facilities will be properly reclaimed and decommissioned at the end of their useful life. The financial assurance may be in any form acceptable to the Bonding Program and may include a corporate guarantee, letter of credit, bond, deposit account, or insurance policy. All such plans are required as part of Section



109 permit applications and Section 107 request for waiver of permit applications and shall demonstrate compliance with rules and regulations adopted by the ISC. The financial assurance instrument must be provided to the WDEQ Bonding Program prior to the start of construction. In addition, a bond may be required following the request by a local government to the Director of the WDEQ to indemnify that government for preparations necessary for the project. A copy of the

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Page 3-4 January 2022

Rules and Regulations of the ISC, Chapters 1 and 2, can be accessed through the following Wyoming Secretary of State website: https://rules.wyo.gov/Search.aspx?mode=1.

The WISA requires certain notices be made prior to the filing of an application. These requirements include:

- Advising local governments of the project, providing 30 days to reply to the applicant before the application is filed;
- · Notifying surface landowners; and
- · Notifying mineral rights owners of record.

Once the notice requirements are met, the ISD will receive and process permit applications. The application consists of the specified number of copies of the application, payment of the required fee, and a letter requesting the permit and certifying the accuracy of the application. The application fee is paid at the time of the filing in an amount determined to cover the costs of processing the application, for compliance during construction and subsequent appearances before the ISC. Within 30 days of receiving the application, the ISD will notify the applicant of any deficiencies. The WISA allows the applicant 30 days to remedy any deficiency after notice. If deficiencies are identified after receiving additional information from the applicant, the applicant has 15 days from the receipt of notice to remedy the deficiencies; otherwise, the permit application will be terminated. The application is provided to the 19 state agencies and to all affected landowners for review and comment. Copies of the agency reviews are provided to the applicant for remedy and to the property owners for comment. Remedies and comments from the agencies, the applicant, and the affected landowners are reported to the ISC. WISA, Section 111, identifies those individuals who are eligible to participate in the permit process as parties, such as local governments. The term "local government" is defined by WISA to mean, counties, incorporated municipalities, school districts, and joint powers boards. As a party, these entities can request permit conditions.

The ISC conducts a hearing in the form of a contested case hearing with sworn testimonies and examination and cross examination of witnesses. Anyone having statutory eligibility are permitted to participate.

The ISC may issue a permit to construct and operate a wind energy facility if it finds that the proposed facility:

- Complies with all applicable law;
- Will not pose a threat of serious injury to the environment or to the social and economic condition of the inhabitants;
- Will not substantially impair the health, safety, or welfare of the inhabitants; and
- Can be constructed, maintained, operated, decommissioned, and reclaimed by the applicant having the financial resources to do so.

In making its decision, the ISC may add permit conditions and, under certain circumstances, relocate all or part of the proposed facility to mitigate identified impacts. The ISC sets the construction schedule of the project. A written decision on issuance or denial of the permit will be issued within approximately 135 days of the filing of an application under WISA Section 109 and within 60 days of the filing of an application under Section 107. Prior examples of applications filed under Sections 107 and 109 may be located through the WDEQ website at: http://deq.state.wy.us/isd/isdnews.htm. Decisions of the ISC may be appealed by the applicant or any party to the district court within 30 days of the written decision.

Contact Information:

WDEQ ISD 200 West 17th Street, 4th Floor Cheyenne, WY 82002 (307) 777-7937 http://WDEQ.state.wy.us/isd/

3.2 Wyoming Department of Environmental Quality, Water Quality Division

3.2.1 Clean Water Act, Section 401 Water Quality Certification

Under Section 401 of the Clean Water Act (CWA), any applicant for a federal license or permit to conduct an activity that may result in a discharge of a pollutant into a water of the United States must obtain a 401 Water Quality Certification from the state certifying authority to ensure the discharge will comply with applicable provisions of the CWA and state surface water quality standards. The federal license or permit cannot be issued until the 401 Water Quality Certification has been granted or waived by the certifying authority. If granted, the conditions of the 401 Water Quality Certification become conditions of the federal permit or license.

The WDEQ Water Quality Division (WQD) is the certifying authority responsible for issuing 401 Water Quality Certifications in Wyoming. An exception are tribal lands within the Wind River Reservation where the U.S. EPA Region 8 office is the certifying authority.

The most common 401 Water Quality Certifications issued by the WDEQ WQD are for USACE CWA Section 404 permits. Any project requiring compliance with Section 404 of the CWA would require a 401 Water Quality Certification from the WDEQ WQD.

CWA Section 404 establishes a program to regulate the discharge of dredged or fill materials into waters of the United States (WoUS). The USACE Wyoming Regulatory Office is responsible for issuing Section 404 Dredge and Fill Permits in Wyoming. Common activities that typically require a Section 404 Dredge and Fill permit include but are not limited to the following:

- Placement of fill in a wetland or other water
- Dredging or excavating bodies of water
- Stream bank stabilization or alteration
- Stream channel enhancement or restoration
- Construction of a bridge, road, utility, or pipeline crossing over a waterbody
- Dredging or excavating potentially contaminated sediments
- Construction of any type of permanent or temporary dam, causeway, levee, or other related structure
- Construction of a pond, wetland, detention basin, or related feature
- Dock/ramp construction

The majority of USACE Section 404 permits in Wyoming are issued under the Nationwide Permit (NWP) or Regional General Permit processes. Activities that do not qualify for coverage under a NWP or Regional General Permit would be issued under an Individual Permit. The WDEQ WQD issues two types of 401 Water Quality Certifications – categorical and individual. *Categorical* certifications are those that have been issued for particular types of dredge/fill activities whereby the activity is automatically certified and the conditions of the categorical certification are inserted as conditions of the USACE Section 404 permit. For all other types of dredge/fill activities, the applicant must secure an *individual* certification directly from the WDEQ WQD.



Page 3-6 January 2022

The process by which an applicant secures a categorical or individual 401 Water Quality Certification from the WDEQ for any dredge or fill activities that would be covered under a USACE NWP or Regional General Permit varies depending on the specific permit, WDEQ surface water classification, and the status of the waterbody. Details on this process can be found at: https://deq.wyoming.gov/water-quality/watershed-protection/cwa-section-401-turbidity-wetland/401-water-quality-certification/401-water-quality-certifications-of-usace-section-404-permits/.

For all dredge/fill activities that 1) require an USACE Section 404 Individual Permit, 2) occur on a Class 1 water regardless of the USACE permit type, or 3) occur on a water that has been placed on Wyoming's 303(d) list of impaired waters or has an approved Total Maximum Daily Load (TMDL), a WDEQ WQD individual 401 Water Quality Certification is required.

A joint WDEQ and USACE public notice is issued prior to the issuance of all Individual Section 404 Permits and their 401 Water Quality Certifications. For all NWP or Regional General Section 404 permits where the dredge/fill activity occurs on a Class 1 water, the WDEQ issues a 14-day public notice for the associated individual 401 Water Quality Certification.

Class 1 waters in Wyoming include (WDEQ 2020):

- All surface waters located within the boundaries of national parks and Congressionally designated wilderness areas as of January 1, 1999;
- The main stem of the Snake River through its entire length above the United States Highway 22 Bridge (Wilson Bridge);
- The main stem of the Green River, including the Green River Lakes from the mouth of the New Fork River upstream to the wilderness boundary;
- The main stem of the Wind River from the Wedding of the Waters upstream to Boysen Dam;
- The main stem of the North Platte River from the mouth of Sage Creek upstream to the Colorado state line;
- The main stem of the North Platte River from the headwaters of Pathfinder Reservoir upstream to Kortes Dam (Miracle Mile segment);
- The main stem of the North Platte River from the Natrona County Road 309 bridge (Goose Egg bridge) upstream to Alcova Reservoir;
- The main stem of Sand Creek above the U.S. Highway 14 Bridge;
- The main stem of the Middle Fork of the Powder River through its entire length above the mouth of Buffalo Creek;
- The main stem of the North Fork of the Tongue River, the main stem of the South Fork of the Tongue River, and the main stem of the Tongue River, the above the USFS Boundary;
- The main stem of the Sweetwater River above the mouth of Alkali Creek;
- The main stem of the Encampment River from the northern USFS Boundary upstream to the Colorado state line;
- The main stem of the Clarks Fork River from the USFS Boundary upstream to the Montana state line:
- All waters within the Fish Creek (near Wilson, Wyoming) drainage;
- The main stem of Granite Creek (tributary of the Hoback River) through its entire length;
- Fremont Lake; and

January 2022 Page 3-7



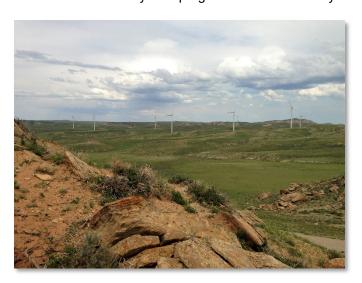
Wetlands adjacent to the above listed Class 1 waters.

Contact Information:

WDEQ, Water Quality Division 200 West 17th Street Cheyenne, WY 82002 (307) 777-6701

3.2.2 Wyoming Pollutant Discharge Elimination System

The WDEQ-WQD is the state agency responsible for regulating the Wyoming Pollutant Discharge Elimination System program in the state of Wyoming. The permit requirement for wind energy



development projects that disturb 5 or more acres is called a Large Construction General Permit (LCGP) WYR10-0000. The LCGP regulates stormwater discharges from all construction activities that disturb 5 or more acres. Also covered are discharges from smaller construction activities if they are part of a larger common plan of development or sale that will ultimately disturb 5 or more acres. Projects disturbing at least 1 acre, but less than 5 acres, are required coverage under a Small Construction General Permit (SCGP) WYR 10-A000. This permit is very similar to the permit for large construction activities, except that is does not require a Notice of Intent (NOI). A construction site is considered authorized under the permit when

all applicable provisions of the permit are completed and implemented by the construction site operator.

Under the LCGP, the applicant must prepare a stormwater pollution prevention plan (SWPPP) and submit an NOI to WDEQ-WQD 30 days before beginning construction activities. The SWPPP describes potential pollution sources and the best management practices that would be used to prevent stormwater contamination. The NOI describes the construction project and route(s) that stormwater may take from the construction site to waters of the state. WDEQ-WQD reviews the NOI to determine whether the operator may discharge stormwater under the general permit, or if an individual Wyoming Pollutant Discharge Elimination System permit is required.

Operators covered under the LCGP ensure, through implementation of the facility SWPPP, that

stormwater discharges from their facilities do not cause a violation of state surface water quality standards as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations. Furthermore, stormwater discharges must not cause pollution, contamination, or degradation to waters of the state.

Coverage must be continued by the operator until the construction site is "finally stabilized." Final stabilization

Most renewable energy development projects require a stormwater permit. Be sure to review the SWPPP requirements on WDEQ's website: http://deq.wyoming.gov/wqd/stormwater-permitting/

refers to areas of the construction site that do not have permanent structures such as buildings, or roads that are revegetated with perennial vegetation to a uniform 70 percent of natural background cover.



Page 3-8 January 2022

3.2.3 Permits to Construct Water and Sewer System

If water and/or sewage systems are intended to be built to serve offices, man-camps, or staging areas, Chapter 3 of the Wyoming Water Quality Rules and Regulations may require a permit to construct such systems. The requirements vary depending on size and location, so if construction of such systems is anticipated, the Water and Wastewater Manager for WDEQ-WQD should be contacted. Permits to construct are not required if bottled water is used to provide potable water and if portable toilets are used in place of wastewater treatment systems.

3.3 Wyoming Department of Environmental Quality, Air Quality Division

3.3.1 Construction General Emission Standards

The WDEQ Air Quality Division (AQD) is the responsible agency for compliance with the state Construction General Emission Standards (Chapter 3, General Emission Standards).

Construction of a wind energy facility within the state does not require a construction permit from WDEQ-AQD. However, a permit would be required for the construction and operation of a concrete batch plant, if it is necessary for construction. Permit requirements for the batch plant are stipulated under WDEQ-AQD Standards and Regulations, Chapter 6, Section 2, Permit Requirements for Construction, Modification, and Operation. The permit processing timeframe, assuming the batch plant is portable, would be a 30-day completeness review and a 60-day analysis period.

If the batch plant is stationary, it would require a 30-day completeness review, followed by a 30-day public notice and public comment period. After the comment period closes, the agency will review comments. If requested by the public and granted by the AQD Administrator, a public hearing and 30-day comment period will follow. Following the comment period, the agency will again review and address, if needed, any comments.

If the facility includes a stationary emergency generator, the generator will also be subject to the permitting requirements of Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations. The permit processing timeframe would be a 30-day completeness review, a 60-day analysis period, and, depending on size, type, and associated emissions, a 30-day public notice and public comment period.

Contact Information:

WDEQ Air Quality Division 200 West 17th Street, 3rd Floor Cheyenne, WY 82002 (307) 777-7391

3.4 Wyoming Department of Environmental Quality, Land Quality Division

Pursuant to W.S. § 35-11-401 et seq. the Land Quality Division issues permits for mines. Such permits may be required for the mining of aggregate to be used in concrete and roads for energy projects. Land Quality Division staff review WISA permit applications for mines and mining issues and make any necessary recommendations to the ISC.

Contact Information:

WDEQ, Land Quality Division 200 West 17th Street, Suite 10 Cheyenne, WY 82002

January 2022 Page 3-9

3.4.1 Abandoned Mine Lands Division

Pursuant to W.S. § 35-11-1201 et seq., the Abandoned Mine Lands Division identifies and remediates hazards of abandoned mines. Abandoned Mine Lands staff review WISA permit applications for abandoned mines and make any necessary recommendations to the ISC.

Contact Information:

WDEQ, Abandoned Mine Lands Division 200 West 17th Street, Suite 400 Cheyenne, WY 82002

3.5 Wyoming Public Service Commission

Public utilities, as defined by W.S. § 37-1-101(a)(vi), must obtain a Certificate of Public Convenience and Necessity (CPCN) from the WPSC prior to construction of certain facilities pursuant to W.S. § 37-2-205. Merchant (wholesale) generators who do not provide retail service to the public do not fall under the jurisdiction of the WPSC. Public utility electric generating plants, including wind generation facilities, are "Major Utility Facilities" as defined in the WPSC Rules, Chapter 1 § 3(a)(xxxv). These rules are available online at: https://rules.wyo.gov/. Wind facilities and associated systems constructed by public utilities are therefore subject to CPCN requirements. If the wind facility can demonstrate to the WPSC that its project is in the ordinary



course of business or otherwise exempt, a CPCN is not required and the WPSC will inform the utility within 20 days of receipt of the utility's notice whether or not it is exempt (WPSC Rules, Ch. 3, § 21(a)(ii)).

In 2019, the Wyoming legislature extended the CPCN requirement to public utility facilities outside the state of Wyoming if a return will be earned on the investment in Wyoming and the capital investment in the nonsitus resource exceeds 1 percent of the total capital investment "on which return is earned," unless otherwise waived by the WPSC (W.S. § 37-2-205.1). The WPSC has

adopted rules authorizing a waiver if there is a clear emergency, a time-sensitive opportunity, or any other factor indicating the waiver is in the public interest (WPSC Rules, Ch. 3,§ 21(a)(iii)).

To determine whether a CPCN should be granted, the WPSC considers the financial ability and good faith of the applicant utility as well as the necessity of additional service in the utility's service territory (W.S. § 37-2-205). WPSC's Rules, Chapter 3 § 21(c)(i)-(ii), require that CPCN applications proposing the construction of major utilities, including electric generation facilities, contain the following information:

- · Name and address of the applicant;
- Type of plant, property or facility proposed to be constructed;
- Complete description of the facilities proposed to be constructed, including preliminary
 engineering specifications in sufficient detail to properly describe the principal systems and
 components, and final and complete engineering specifications once available;
- Rates, if any, proposed to be charged for the service that will be rendered because of the proposed construction;



Page 3-10 January 2022

- Estimated total cost of the proposed construction;
- Statement of the manner by which the proposed construction will be financed;
- Statement of the financial condition of the applicant;
- Estimated annual operating revenues and expenses expected to accrue from the proposed construction;
- Estimated starting and completion date of the proposed construction;
- Statement describing how the facility will meet present of future service demands in Wyoming or other states within the utility's service area;
- Description of the proposed site including the involved properties and the county or counties in which the facility will be located, and where possible, a metes and bounds description;
- Description of the route of line or lines in the project and the number of route miles located in each county;
- Description of the various types of country in or through which the facility will be constructed;
- Brief report on the surrounding scenic, historical, archeological and recreational locations, natural resources, plant and animal life, land reclamation, possible safety hazards, and plans for protecting the environment;
- Land, mineral, and water requirements for the facility, the status of the acquisition of land, or ROWs of minerals and water for the project, the sources or locations thereof, and the proposed method of transportation and utilization;
- Statement setting forth the need for the project in meeting present and future demands for service, in Wyoming or other states, and the proposed sale of the utility commodity or service that the construction of this facility will make available;
- Statement of the effect of the project on applicant's and other systems' stability and reliability, if applicable;
- List of local, state, Indian, or federal governmental agencies having requirements that must be met in connection with the construction or operation of the project, and the status before those agencies (applicant shall file such agency's final order when entered);
- General description of the devices to be installed at the facility to protect air, water, chemical, biological, and thermal qualities; the designed and tested effectiveness of such device; and the operational conditions for which the devices were designed and tested;
- Name of any body or source of water or river along which the facility will be constructed or from which it will obtain or return water; and
- Geological report of the station site including foundation conditions, groundwater conditions, and operating mineral deposits within a 1-mile radius; and a topographical map showing the area within a 5-mile radius.

Electric transmission (and distribution) lines more than 3 miles in length and 69 kilovolts and greater and substations, also defined as "major utility facilities" under the WPSC Rules (Chapter 1 § 3(a)(xxxv)(B) & (C), are subject to the foregoing requirements. WPSC general public notice and hearing requirements apply to CPCN applications. In addition, specific public notice and hearing requirements apply to CPCN applications for high-voltage electric transmission lines with a capacity of 230 kilovolts or greater. Additional requirements for transmission lines are specified in W.S. § 37-2-205(e) through (h).

In 2021, the Wyoming Legislature passed legislation giving the WPSC discretion to consider additional factors in reviewing proposals to construct major facilities. The WPSC may "consider

January 2022 Page 3-11

reliability and cost externalities incurred by the state of Wyoming" W.S.§ 37-2-122(e). If considered in any approval process, the requirements would be in addition to those found in WPSC Rules, Chapter 3, Section 21(c).

Contact Information:

Wyoming Public Service Commission Hansen Building Suite 300 2515 Warren Avenue Cheyenne, WY 82002 (307) 777-7427

3.6 Wyoming State Engineer's Office

As directed by W.S. § 35-12-110(c), the WSEO provides an opinion on the advisability of granting or denying the WISA permit, together with an explanation of the WSEO's regulatory jurisdiction and ability to regulate potential impacts.

The WSEO has regulatory jurisdiction over certain portions of energy projects, specifically the use of water:

- Title 97, Article 1, Section 31 of the Wyoming Constitution states that "Water being essential
 to industrial prosperity, of limited amount, and easy of diversion from its natural channels, its
 control must be in the state, which, in providing for its use, shall equally guard all the various
 interests involved."
- Title 97, Article 8, Section 1 of the Wyoming Constitution provides that "The water of all natural streams, springs, lakes or other collections of still water, within the boundaries of the state, are hereby declared to be the property of the state."
- Title 97, Article 8, Section 3 of the Wyoming Constitution states that "Priority of appropriation for beneficial uses shall give the better right. No appropriation shall be denied except when such denial is demanded by the public interest."
- Title 97, Article 8, Section 5 of the Wyoming Constitution provides the State Engineer with "general supervision of the waters of the state and of the officers connected with its distribution."

Energy projects will be required to obtain the appropriate water use permits from the WSEO prior to using any water of the state required for the project.

If the energy project applicant applies for a WISA permit, pursuant to W.S. § 35-12-106, or for a waiver of the application provisions, pursuant to W.S. § 35-12-107, for a facility which requires the use of 800 or more acre-feet of the waters of this state annually, the applicant shall prepare and submit to the State Engineer a Water Supply and Water Yield Analysis with a request for a preliminary and final opinion as to the quantity of water available for the proposed facility (W.S. § 35-12-108(a)).

The final opinion shall be submitted to the ISC and the WPSC and is binding on the ISC for the purposes of issuing a WISA permit, and shall be reviewed by the WPSC prior to its issuance of a CPCN (W.S. 35-12-108(f)). The State Engineer's preliminary and final opinion shall not create a presumption concerning injury or non-injury to water rights, nor shall those opinions be used as evidence in any administrative proceeding or in any judicial proceeding concerning water right determinations or administration.

Contact Information:

Ground Water Division State Engineer's Office 122 W. 25th Street, 2 West Cheyenne, WY 82002 (307) 777-5063



Page 3-12 January 2022

3.7 Fire Marshal; Department of Fire Prevention and Electrical Safety

The Wyoming Division of Electrical Safety enforces the National Electrical Code adopted by W.S. § 35-9-120 and has jurisdiction with facilities not exempted by Section 90.2 of the National Electrical Code. Facilities that are not exempt can be examined and approved by a State Electrical Inspector.

The Department of Fire Prevention and Electrical Safety is one of 19 state agencies charged with the statutory review of permit applications to the ISC. Section 110(c) of the WISA requires the Department to recommend approval or denial of a permit, provide reasons, and provide any recommendations for permit conditions.

Furthermore, the Department must disclose any regulatory jurisdiction over the project and notify the ISD of its ability to effectively regulate the project.

Contact Information:

Wyoming State Fire Marshal 320 W. 25th, 3rd Floor Cheyenne, WY 82002 (307) 777-7288

3.8 Wyoming Office of State Lands and Investments

Renewable energy development on Wyoming state trust land is under the jurisdiction of the State Board of Land Commissioners (Board) and administered through the Wyoming OSLI. The Board's Rules and Regulations allow for wind energy development through a Wind Energy Lease (Chapter 6), surveying activities through survey authorization form (Chapter 16) and MET tower installation through a Temporary Use Permit (Chapter 14).

3.8.1 Survey Authorization Forms

Interested applicants who need to conduct a land or environmental survey of state trust lands can do so with a survey authorization from OSLI. Currently, there is no fee to apply for a survey authorization, and upon receiving a complete application, a signed authorization form is usually issued to the applicant within 2 to 4 weeks. The application form for a survey authorization is found at the following website under the "Miscellaneous" tab: https://lands.wyo.gov/resources/applications-forms.

3.8.2 Temporary Use Permits

Temporary Use Permits are issued to developers for the installation and monitoring of MET towers prior to applying for a wind energy lease. These permits are generally limited to a 5-year term at an annual rent of \$1,000 per tower and do not guarantee or prioritize the permittee for future development of a project area. A \$25 filing fee is submitted with the application. The process from application to final approval is typically 2 months and requires the following from the permittee:

- Notify existing surface lessees for their comment;
- Notify WGFD to determine what stipulations will apply to the permit if the location is within the Sage Grouse Core Area; and
- Submit Surface Impact Payments directly to existing surface lessees in accordance with the approved impact payment schedule.

January 2022 Page 3-13

After the permit is submitted, preliminary approval may be granted within 20 days to 30 days by the Director of OSLI after receipt of the completed application. After receiving preliminary approval, the applicant may commence activities but assumes the risk that the Board may ultimately disapprove the application at their regularly scheduled meeting. Final approval is granted by the Board during a regularly scheduled meeting held every other month.

The complete application requires a \$50 application filing fee. The Temporary Use Permit application and information regarding the temporary use permitting process are found at the following website: https://lands.wyo.gov/trust-land-management/surface-leasing/temporary-use-permits.

3.8.3 Wind Energy Lease Agreements

Wind Energy Lease Agreements provide the lessee with wind energy development rights of

specific parcels of state trust land. The duration of processing an application and preparing the proposed Wind Energy Lease for consideration of the Board is typically between 4 and 12 months. Components of this process that require the most time include negotiating the Wind Energy Lease terms and receiving existing lessee consent. It is important to note that the Wind Energy Lease application is subject to any preexisting uses. Further, a Wind Energy Lease applicant must consult with any existing lease holder (i.e., the grazing lease holder) during the application process to determine whether the proposed wind energy development is compatible with the existing use.

Plan ahead. The wind energy lease process requires Board of Land Commissioners approval and may take a several months to schedule after an application is submitted and has completed its review process.

Pursuant to the Board's Rules and Regulations, the Wind Energy Lease applicant must have the existing lessee's consent prior to Board approval and lease issuance. Should this consent not be obtained, OSLI is required to formally notify the existing lessee(s) of the application at least 20 days prior the regularly scheduled Board meeting. While collecting the existing lessee's consent is a requirement prior to presenting the Wind Energy Lease application to the Board for consideration, the inability to retrieve the existing lessee's consent does not prevent the Board from approving and issuing a Wind Energy Lease.

Although some terms, primarily rent payment amounts, are negotiated with each Wind Energy Lease, OSLI uses a lease agreement template for all wind energy leases. This template can also be found in the link provided below. One condition included in the lease is for the lessee to maintain compliance with other local, state, and federal governmental agencies. When OSLI receives a new Wind Energy Lease application, OSLI staff notifies WGFD and the Wyoming State Historical Preservation Office and coordinates with WDEQ's ISD to ensure accurate and appropriate permitting procedures are followed.

The wind energy application fee is \$250. Lease terms are issued for the anticipated economic life of the project and is typically around 35 years. However, a lease may be renewed for a period not to exceed a total of 75 years. Additionally, a reclamation bond in the amount set by an engineer's estimate is required prior to construction. To learn more about leasing state trust land for wind energy development and to view the application packet, please visit https://lands.wyo.gov/trust-land-management/surface-leasing/wind-energy-leases.

Once the Wind Energy Lease application has been submitted, OSLI will:



Page 3-14 January 2022

- Review the applicant's experience, financial ability, business licensing, and procurement of transmission and marketing agreements.
- Determine that state trust lands being applied for has access and site control by the
 applicant. In the event that multiple applications are received for the same parcel(s), or
 the state parcel is large enough to be a stand-alone project, a competitive bid process
 may be offered before leasing to the applicant.
- Review the state trust lands being applied for to determine that potential conflicts can and will be mitigated by the wind lessee. Such conflicts could include those with existing uses, wildlife, cultural and historic importance, and other conflicts as identified.
- Determine whether the parcel is within a sensitive habitat area and apply appropriate stipulations.
- Negotiate and come to agreement on the terms and conditions of the proposed lease
 agreement including: 1) annual rents per acre until operation; 2) an installation fee based
 on generating capacity—50 percent payable at commencement of construction, and 50
 percent prior to operation; and 3) operating rent equal to the greater of a percentage of
 gross revenue, a rent based on generating capacity, or a rent per acre.

After staff review, the Director of OSLI will recommend that the application and lease agreement be approved or disapproved by the Board. The Board meets every other month, and the lease application would be approved or denied at these meetings. The Board's meeting schedule is available at this website: https://lands.wyo.gov/boards/state-board-of-land-commissioners. Additionally, examples of past board matters prepared and presented to the Board for consideration can is available at this website: https://lands.wyo.gov/boards/state-board-of-land-commissioners.

To learn more about leasing state trust land and to view the application packet, please visit the following website: https://lands.wyo.gov/trust-land-management/surface-leasing/wind-energy-leases.

Contact Information:

Tyler Seno

Wind Energy Leases
Wyoming Office of State Lands and Investments
122 W. 25th Street, 3 West
Cheyenne, WY 82002
Tyler.seno@wyo.gov
(307) 777-5762

Benjamin Peterson

Survey Authorization Forms and Temporary Use Permits Wyoming Office of State Lands and Investments 122 W. 25th Street, 3 West Cheyenne, WY 82002

Benjamin.peterson1@wyo.gov
(307) 777-2980

3.9 Wyoming Department of Transportation

3.9.1 Wyoming MET Towers Reporting System

Wyoming has enacted requirements to report the erection and removal of MET towers to protect commercial and civil aviation in the state. Per W.S. §10-4-305, every person owning or leasing a structure that meets the following criteria shall be reported to the WYDOT:

January 2022 Page 3-15

- The structure is located outside the exterior boundaries of any incorporated city, town, or recorded subdivision, and the structure's appearance is not otherwise mandated by state or federal law or rule or regulation.
- The structure is 50 feet in height above the ground or taller.
- The structure is associated with the development or study of wind-powered electric generation, commonly known as MET tower.
- The structure was erected, raised after being lowered, purchased, or leased on or after the effective date of this act (April 30, 2009).

Persons owning or leasing a structure meeting the reporting requirements listed above are required to submit the following information to the Wyoming Aeronautics Division of the WYDOT using the Wyoming MET Towers Reporting System at the following website: http://www.dot.state.wy.us (navigate from there to the Aeronautics/Met Tower Reporting page):

- The structure's exact location by county and by either latitude and longitude or by Universal Transverse Mercator coordinates;
- The elevation of the site in feet:
- The structure's height above ground level, in feet;
- The owner's or lessee's name, address, telephone number, e-mail address (if any), and owner's representative (if any); and
- The method used to make the structure visible.

The WYDOT shall make information, other than ownership information, available to the public as described in W.S. §10-4-305. Information as required in Section 2 of this rule shall be submitted to the Aeronautics Division of the WYDOT.

3.9.2 Utility Permit

A Utility Permit from WYDOT would be required for the installation of associated electric transmission facilities on a state highway within the ROW. Each permit application must contain a description, including dimensions, of the proposed utility installation and a detailed plan or sketch showing the physical placement of the utility with relation to highway features. Permit requirements, a sample application, and WYDOT contacts can be found at this website: http://www.dot.state.wy.us/home/engineering_technical_programs/utilities_section.html. Contacts for the utility permit would depend on the district where the work is proposed.



Page 3-16 January 2022

Whenever a utility installation, adjustment, or maintenance activity could affect the movement of traffic or traffic safety, the utility will implement a traffic control plan and utilize traffic control devices as necessary to ensure the safe and expeditious movement of traffic around the work site and the safety of the utility work force in accordance with procedures established by WYDOT. The traffic control plan and the application of traffic control



devices must conform to the standards set forth in the current edition of the Manual on Uniform Traffic Control Devices and 23 Code of Federal Regulations (CFR) Part 630, Subpart J.

No application fee is specified by WYDOT for a Utility Permit. The Utility Permit application review could take from 2 weeks to 2 months depending on WYDOT staff availability.

Contact Information:

Wyoming Department of Transportation Utility Section 5300 Bishop Blvd., Cheyenne, WY 82009 (307) 777-4176

3.9.3 Oversize/Overweight Permits

Permits are also required for vehicles and loads that exceed the statutory limits as described in W.S. § 31-18-801 through W.S. § 31-18-808, and are administered through WYDOT as authorized under W.S. § 24-2-105 and W.S. § 31-18-804(j). There are 10 types of permits that are available through WYDOT that include overweight permits, oversize permits, self-issuing permits, and extended period permits, and off-load permits. The permits authorize certain amounts of movement (i.e., multiple or separate trips), timeframes for activities, and types of loads (i.e., multiplece equipment, forest products, etc.). Guidelines and requirements for obtaining each type of permit can be found at this website:

http://www.whp.dot.state.wy.us/files/live/sites/whp/files/shared/Misplaced%20files/Rules%20Governing%20Truck%20Sizes%2cWeights%20%26%20Permits.pdf.

Utilities may apply to become a self-issuing company. In this case, the company would apply for a Class C permit (self-issuing permit) through the WYDOT Office of Overweight Loads. Class C permits are issued upon request by the Office of Overweight Loads and may be used on all vehicles the permittee owns or leases. A self-issuing permit holder would need to complete a separate Class C permit before each separate movement (e.g., each movement of a vehicle, load, or cargo to a specified location). A Class C permit will be issued by the Office of Overweight Loads after:

- Applications have been reviewed and approved;
- Applicants have received instruction on the rules and regulations governing the use of the permit;

Page 3-17

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- The established fee has been paid to the department; and
- The number of permits issued must be accounted for by the holder at all times upon request by the Office of Overweight Loads.

The Overweight Permit for oversize loads would cost \$25 for any vehicle or load that exceeds the statutory limits, and an additional \$20 for overweight manual.

Contact Information:

Wyoming Department of Transportation 5300 Bishop Blvd., Cheyenne, WY 82009 Toll-Free 1-888-570-9908

3.10 Wyoming Game and Fish Department

3.10.1 Consultation to Identify Fish and Wildlife Concerns

The State of Wyoming holds wildlife in trust for the people, and all native wildlife are protected under State law. The Wyoming Game and Fish Commission (WGFC) serves as the policy-making board responsible for the direction of the WGFD, and through WGFD provides an adequate and flexible system of control, propagation, management, protection, and regulation of all wildlife in Wyoming (W.S. §23-1-301-303). The WGFD is the responsible state agency for consultation concerning fish and wildlife species.

WGFD should be consulted to identify Species of Greatest Conservation Need (SGCN) or other terrestrial or aquatic species and habitats that may be affected by wind energy development projects. While WGFD does not directly issue permits related to wind energy development projects, WGFD should be involved in consultation to determine environmental impacts as part of

the WISA permit, Section 404 permit, Section 401 certification, and/or county permit (as applicable). In addition, fish and wildlife should be evaluated in an Environmental Assessment (EA) or Environmental Impact Statement (EIS) if a federal National Environmental Policy Act (NEPA) process is required for energy development projects. State and federal agencies or county governments may engage the WGFD in their respective permitting process, as needed. Coordination with the U.S. Fish and Wildlife Service (USFWS) Wyoming Ecological Services Field Office is also important for all wind development and can help ensure compliance with federal laws for migratory birds, eagles, and threatened or endangered species.

WGFD should be consulted at the very early stages of project planning process (site selection, suitability assessment, and critical issues analysis) to address fish and wildlife concerns.

WGFD should be consulted at the beginning of the state or federal permit application process to address fish and wildlife concerns. WGFD recommends that project developers consult with WGFD during preliminary project planning (i.e., in advance of final site selection and project layout), and at least 2 years prior to initiating project construction so the appropriate baseline monitoring and/or studies can be conducted and site-specific recommendations can be developed. For wind energy projects, the WGFD typically recommends a minimum of 2 years of pre-construction baseline survey data and a minimum of 3 years post-construction monitoring. Baseline survey and monitoring reports should be provided for review to the WGFD Habitat Protection Program on an annual basis.

When a project area involves private lands, the project developer is responsible for ensuring all affected landowner(s) have been notified of any proposed studies or monitoring activities and have been granted all necessary access for the purpose of such studies or monitoring.



Page 3-18 January 2022

WGFD considers loss and fragmentation of habitat as the principal concern when evaluating potential disturbance to the landscape and the effect on fish and wildlife species; however, cumulative impacts and direct and indirect impacts (e.g., collision with infrastructure and alterations of seasonal movements) also contribute to declines in species habitats. Intact crucial, seasonal, and other high-value habitats are important for maintaining adequate habitat connectivity across the state and for healthy wildlife populations.

WGFD has developed *guidelines for wind and solar energy development*, which are used as the basis for making recommendations to project proponents and permitting agencies for minimizing the impacts of wind energy development on fish and wildlife in Wyoming. This document provides detailed recommendations on the development of a monitoring plan; considerations for project planning, design, operations, and reclamation; and measures to minimize impacts. Recommendations outlined in the WGFD *guidelines for wind and solar energy* may not be applicable to all energy projects and are intended to be tailored to each individual project in consultation with the WGFD. The WGFD encourages inclusion and participation of private landowners in project meetings between the developer and the WGFD, during the development of the monitoring plan, and in the review of wildlife monitoring data and subsequent recommendations. WGFD wind and solar energy guidelines are available at the following website: https://wgfd.wyo.gov/Habitat/Habitat-Protection-Program/Resources-for-Development-Planning.

The WGFD encourages project developers to use the NREX (https://nrex.wyo.gov/) application in project planning to investigate potential fish and wildlife concerns associated with project siting.

3.10.2 Greater Sage-Grouse and Mule Deer and Antelope Migration Corridor Executive Orders

The State of Wyoming has adopted Executive Order 2019-3 Greater Sage-Grouse Core Area Protection to ensure greater sage-grouse conservation within the state. Per Executive Order 2019-3, commercial wind energy development is not recommended in greater sage-grouse core population areas, and wind energy development, including associated infrastructure (e.g., transmission lines), occurring in non-core areas should comply with all applicable stipulations for development as outlined in the Executive Order. Coordination with the WGFD should be pursued for wind energy projects located in greater sage-grouse habitat.

The State of Wyoming has adopted Executive Order 2020-1 Mule Deer and Antelope Migration Corridor Protection to ensure the functionality of migration corridors is maintained where they have been designated. Wind energy development, including associated infrastructure (e.g., transmission lines), in designated mule deer or antelope migration corridors should comply with the guidelines for development outlined in the Executive Order. Coordination with the WGFD should be pursued for wind energy development located in designated mule deer and antelope migration corridors.

3.10.3 Special Use Permit within Wildlife Habitat Management Areas

The WGFC is authorized to by W.S. § 23-1-302 (a)(iii) to acquire lands and waters to develop, improve, operate, or maintain game production areas, game management areas, and areas with public access for hunting, fishing, or trapping. Permitting a wind energy facility within a Wildlife Habitat Management Area would require a SUP from the WGFC. There are 43 Wildlife Habitat Management Areas, as listed in **Table 3-2**.

January 2022 Page 3-19

Table 3-2. WGFD Wildlife Habitat Management Areas

Wildlife Habitat Management Area	Wildlife Habitat Management Area
Amsden Creek Wildlife Habitat Management Area	23. Rawhide Wildlife Habitat Management Area
2. Black Butte Wildlife Habitat Management Area	24. Red Canyon Wildlife Habitat Management Area
3. Bud Love Wildlife Habitat Management Area	25. Red Rim-Daley Wildlife Habitat Management Area
Camp Creek Wildlife Habitat Management Area	26. Red Rim-Grizzly Wildlife Habitat Management Area
5. Chain Lakes Wildlife Habitat Management Area	27. Renner Wildlife Habitat Management Area
6. Cottonwood Draw Wildlife Habitat Management Area	28. Sand Creek Wildlife Habitat Management Area
7. Ed O. Taylor Wildlife Habitat Management Area	29. Sand Mesa Wildlife Habitat Management Area
8. Fall Creek Wildlife Habitat Management Area	30. Sinks Canyon Wildlife Habitat Management Area
9. Forbes/Sheep Mountain Wildlife Habitat Management Area	31. Soda Lake Wildlife Habitat Management Area
10. Greys River Wildlife Habitat Management Area	32. South Park Wildlife Habitat Management Area
11. Half Moon Wildlife Habitat Management Area	33. Spence/Moriarity Wildlife Habitat Management Area
12. Horse Creek Wildlife Habitat Management Area	34. Springer/Bump Wildlife Habitat Management Area
13. Jelm Wildlife Habitat Management Area	35. Sunlight Basin Wildlife Habitat Management Area
14. Kerns Wildlife Habitat Management Area	36. Sunshine Wildlife Habitat Management Area
15. Kirk Inberg/Kevin Roy Wildlife Habitat Management Area	37. Table Mountain Wildlife Habitat Management Area
16. Laramie Peak Wildlife Habitat Management Area	38. Teton Wildlife Habitat Management Area
17. Luke :Lynch Wildlife Habitat Management Area	39. Tom Thorne/Beth Williams Wildlife Habitat Management Area
18. Medicine Lodge Wildlife Habitat Management Area	40. Whiskey Basin Wildlife Habitat Management Area
19. Morgan Creek Wildlife Habitat Management Area	41. Wick/Beumee Wildlife Habitat Management Area
20. Ocean Lake Wildlife Habitat Management Area	42. Woods Canyon Wildlife Habitat Management Area
21. Patrol Cabin Lake Wildlife Habitat Management Area	43. Yellowtail Wildlife Habitat Management Area
22. Pennock Mountain Wildlife Habitat Management Area	

The WGFC may issue a SUP to allow special uses of lands and waters acquired or administered by the WGFC when such use does not interfere with the purpose for which the lands and/or waters were acquired or are administered.

A SUP may contain conditions and/or restrictions on said use at the discretion of WGFC to protect wildlife, wildlife habitat, public safety, and public use. Special use applications should include the following information as listed in WGFD Regulations Chapter 23, Section 4(d) and (e) (https://wgfd.wyo.gov/WGFD/media/content/PDF/Licensing/WGFD_SUPForm.pdf):

- Name/contact of applicant;
- Date, time, duration, nature and location of proposed special use;
- Concise explanation and description of the proposed special use;
- Statement of equipment/facilities to be utilized;
- Any additional information requested by WGFD necessary to assess potential impact of the special use on the Commission acquired or administered lands and waters; and
- Liability insurance.

WGFD assesses an application-processing fee of \$25 to cover administrative costs. In addition, WGFD may require the filing of a bond with satisfactory surety payment to the WGFC to cover costs such as habitat restoration, rehabilitation, and cleanup of the area, or for any damages or costs that are incurred as a result of the special use.



Page 3-20 January 2022

SUP applications should be submitted through the Services Division of the WGFD not less than 60 days prior to the date of the requested special use for short-term SUPs or at least 6 months prior to the date of the requested long-term SUP (i.e., uses greater than 1 year).

Contact Information:

Wyoming Game and Fish Department Habitat Protection Program 5400 Bishop Blvd. Cheyenne, WY 82006 (307) 777-4506



3.11 Wyoming Department of Agriculture Weed and Pest Council

The Wyoming Department of Agriculture Weed and Pest Council (WWPC) is the appropriate state entity for consultation on matters involving state-listed noxious weeds. Twenty-three weed and pest districts associated with the boundaries of each county comprise the WWPC. The existence of the WWPC is allowed for by law under the Wyoming Weed & Pest Control Act of 1973 under W.S. §11-5-102.

In addition to consulting on matters involving state-listed noxious weeds, the WWPC reviews WISA permit applications to see if there would be changes to land use, including changes to agricultural production, as a consequence of the project. The WWPC is one of 19 state agencies charged with statutory review of permit applications to the ISC. Section 110(c) of the WISA requires the Department to recommend approval or denial of a permit, provide reasons, and provide any recommendations for permit conditions. Furthermore, the WWPC must disclose any regulatory jurisdiction over the project and notify the ISD of its ability to effectively regulate the project.

Contact Information:

Wyoming Department of Agriculture, Weed and Pest Council State Weed & Pest Coordinator 6607 Campstool Road
Cheyenne, WY 82007
(307) 777-6585



3.12 Wyoming State Historic Preservation Office

Per W.S. § 35-12-110(b)(xx), SHPO is required to advise the ISD on the advisability of issuing or denying a permit to construct and operate and give recommendations for permit conditions. The Wyoming SHPO assists the ISD by reviewing the cultural resources sections of the permit application and making recommendations as to its adequacy. The ISD requires its applicants to consult with SHPO staff and database; conduct Class II or Class III Cultural Surveys through professionals meeting the Secretary of Interior Professional Standards for Archaeology, History, or Architectural history; include the agent's report in the application that meets the Wyoming SHPOs guidelines for Class II and Class III reports; and comment on the acceptability of the recommendations for each site (unless redacted).

Under the implementing regulations of Section 106 the National Historic Preservation Act (36 CFR 800), the Wyoming SHPO consults with the lead federal agency on the effect of the

undertaking and the eligibility of identified resources for listing in the National Register of Historic Places. The Wyoming Antiquities Act of 1935 (as amended) prohibits any excavation on any prehistoric ruins, pictographs, hieroglyphics or any other ancient markings, writing, or archeological and paleontological deposits on any state land in Wyoming without first obtaining a permit from the state Board. The state Board directs the State Archaeologist (a section within the Wyoming SHPO) to promulgate and enforce such regulations as it may deem necessary to protect from vandalism or injury prehistoric ruins, relics, and archeological and paleontological deposits of the state as well as natural features. Two types of approvals are issued by

It is strongly advised to consult with the Wyoming SHPO at the beginning of the state or federal permit application process to address concerns for historic properties or cultural resources as early as possible.

the OSLI: a survey authorization form for limited testing and/or surveying of state trust lands, and a Temporary Use Permit to conduct extensive testing. The Wyoming SHPO or the State Archaeologist is available to answer questions about this permit requirement on state lands. Permits are issued by the OSLI; refer to **Section 3.8** for additional information.

Contact Information:

Wyoming State Historic Preservation Office Barrett Building 3rd Floor 2301 Central Avenue Cheyenne, WY 82002 (307) 777-7697

3.13 Wyoming Department of State Parks and Cultural Resources

The WYSPCR is the state agency responsible when easements must be obtained for facilities associated with wind energy development such as roadways or electric transmission lines that must cross state parks, historic sites, or other WYSPCR properties. Consultation and permission from the Department Director predicated on the approval of the state Board is required if crossing a state park property.

The WYSPCR Division of State Parks, Historic Sites and Trails, Rules and Regulations, Section 15, Preservation of Public Property, provides that the destruction, injury, defacement, removal, or disturbance in any manner of any building, sign, equipment, monument, statue, marker or other structure, or of any animal or plant matter and direct or indirect products thereof, including but not limited to petrified wood, flower, cane, or fruit, egg, nest, or nesting site, or of any soil, rock or



Page 3-22 January 2022

mineral formation, artifact, relic, historic or prehistoric feature, or of any other public property of any kind on park lands is prohibited without prior permission of the superintendent.

WYSPCR properties can be found on the following interactive maps.

State Parks and Historic Sites:

http://wysphst.maps.arcgis.com/apps/webappviewer/index.html?id=bc28bacc97904286943d272c ff9a5bce

Monuments and Markers:

https://wysphst.maps.arcgis.com/apps/webappviewer/index.html?id=70c906c090a0466da9781e2a88ac72b6

Contact Information:

Wyoming State Parks and Cultural Resources 2301 Central Avenue, Barrett Building, 4th Floor Cheyenne, WY 82002 (307) 777-7496



4 Federal Permitting and Regulatory Requirements

The applicable federal regulatory requirements and permits needed for construction of renewable energy projects on public lands in Wyoming are included in **Table 4-1**.

Table 4-1. Federal Requirements, Permits, and Consultation

Agency	Study/Permit/Consultation	Contact Information
NEPA	EIS—Various Agencies EA—Various Agencies	Refer to other agency contact information https://www.epa.gov/nepa/national-environmental- policy-act-review-process
U.S. Environmental Protection Agency (EPA)	CWA Section 401—Water Quality Certification Section 402—National Pollutant Discharge Elimination System (NPDES)	(303) 312-6312 or 1-800-227-8917 https://www.epa.gov/aboutepa/epa-region-8- mountains-and-plains
USACE	CWA Section 404—Discharge to and Fill in Waters of the United States (WoUS)	(307) 772-2300 https://www.nwo.usace.army.mil/Missions/Regulator y-Program/Wyoming/
National Historic Preservation Act	Section 106	(307) 777-7697 http://www.wyoshpo.state.wy.us/Contact/Staff.aspx
USFWS	 Endangered Species Act (ESA) Section 7 Consultation ESA Section 10 Incidental Take Permit Bald and Golden Eagle Protection Act (BGEPA) Migratory Bird Treaty Act (MBTA) National Wildlife Refuges (NWR)—ROW authorization for crossing and SUP (SF299) 	(307) 772-2374 http://www.fws.gov/wyominges/
U.S. Federal Energy Regulatory Commission	Rate filing	(202) 502-6088 TTY: (202) 502-8659, Toll-free: 1-866-208-3372 https://www.ferc.gov/
U.S. Federal Highway Administration (FHWA)	Consulted and permits required for utility crossing or encroachments on National Highway System and/or the Interstate Highway System	(307) 772-2101 https://highways.dot.gov/federal-lands/projects/wy
U.S. Department of Energy (DOE)– Western Area Power Administration (WAPA)	Interconnection to a transmission line owned or managed by WAPA requires NEPA Compliance	(970) 461-7200 or 1-800-472-2306 https://www.wapa.gov/regions/RM/rates/Pages/Curre nt_Rate_Schedules.aspx

January 2022 Page 4-1



Agency	Study/Permit/Consultation	Contact Information
USDA	Rural Utilities Service (RUS) Borrower's Request for Funding—Requires NEPA Compliance USFS—Requires NEPA Compliance; SUP (SF- 299)	RUS Electric Program Northern Regional Division (202) 720-1420 https://www.rd.usda.gov/programs-services/all-programs/electric-programs
		U.S. Forest Service, Rocky Mountain Region (303) 275-5350 TTD / TTY for the Hearing Impaired (303) 275-5367 https://www.fs.fed.us/wildflowers/regions/Rocky_Mountain/index.php
		U.S. Forest Service, Intermountain Region (801) 625-5605 https://www.fs.fed.us/wildflowers/regions/intermountain/index.php
U.S. Natural Resources Conservation Service (NRCS)	Farmland Protection Policy Act	NRCS State Office (307) 233-6750 https://www.nrcs.usda.gov/wps/portal/nrcs/main/wy/contact/state/
		Farm Service Agency State Office (307) 261-5231 https://www.fsa.usda.gov/state- offices/Wyoming/index
U.S. Department of Defense (DOD)	ROW Request	Office of the Assistant Secretary of the Army Region 8 (303) 844-0958 https://oaa.army.mil/aboutoaa.aspx
		DOD SITING CLEARINGHOUSE DoDSitingClearinghouse@osd.mil
U.S. Department of Interior	U.S. Bureau of Indian Affairs (BIA) BLM—ROW application U.S. Bureau of Reclamation (BOR)—ROW grant application NPS—ROW application	Wind River Agency Bureau of Indian Affairs (307) 332-7810 https://www.bia.gov/regional-offices/rocky-mountain/wind-river-agency Wyoming BLM, State Office (307) 775-6049
		https://www.blm.gov/office/wyoming-state-office BOR - Wyoming Area Office (307) 261-5671 https://www.usbr.gov/gp/wyao/
		National Park Service - Regional Director (303) 969-2500 https://www.nps.gov/state/wy/index.htm
FAA	• Form 7460-1	(303) 342-1261 https://www.faa.gov/about/office_org/headquarters_o ffices/arc/northwest_mountain/
FCC	Consult to avoid line-of-sight obstruction	(888) 225-5322 https://www.fcc.gov/



Page 4-2 January 2022

4.1 National Environmental Policy Act Environmental Impact Statement, **Various Agencies**

To ensure that information regarding environmental impacts is available to decision makers and the public before decisions are made, a NEPA EIS is required for federal actions significantly affecting the quality of the human environment. The lead federal agencies for NEPA in Wyoming will vary depending on several circumstances including funding, location of the project, and the permits that may be required. Several agencies that may be lead agencies for a NEPA analysis of a wind energy project in Wyoming may include:

- U.S. Department of the Interior/BLM, U.S. National Park Service (NPS), U.S. Bureau of Indian Affairs (BIA), U.S. Bureau of Reclamation (BOR);
- USDA/USFS, Rural Utilities Service (RUS);
- USACE;

January 2022

- USFWS; and
- U.S. DOE, WAPA.

NEPA requires that federal agencies undertake an assessment of environmental effects of proposed actions prior to making decisions for all "major federal actions" that have the potential to significantly affect the quality of the human or natural environment. "Major federal actions" are



defined as actions with effects that may be major and that are potentially subject to federal control and responsibility (40 CFR 1508.18). Federal actions include the provision of federal funding, the issuance of a permit, or the granting of approval by a federal agency or for which the federal agency has ongoing program responsibility. The lead federal agency would be responsible for NEPA compliance. The Council on Environmental Quality Regulations Implementing NEPA (40 CFR Parts 1500-1508) require each federal agency to develop guidance for implementing NEPA.

If an Individual Permit for wetlands impacts is necessary from USACE or an Incidental Take Permit for wildlife impacts is necessary from

USFWS, a comprehensive NEPA review would be required and an EA and/or an EIS would need to be prepared. Issuance of coverage under general USACE permits and FAA review of construction notifications are categorically exempt from comprehensive NEPA review. The primary NEPA triggers for wind development projects are described below and shown in Table 4-2.

NEPA requires that an EIS or, for projects without significant impacts, an EA be prepared for all "major federal actions" that have potential to affect the quality of the human or natural environment, unless agency regulations specify the action to be a categorical exclusion.

The Council on Environmental Quality Regulations Implementing NEPA (40 CFR Parts 1500-1508) define the terms categorical exclusion, EA, and EIS:

"Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these

Page 4-3

- regulations (Sec. 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. (40 CFR 1508.4).
- "Environmental Assessment" (a) Means a concise public document for which a federal agency is responsible that serves to 1) briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, 2) aid an agency's compliance with the Act when no environmental impact statement is necessary, and 3) facilitate preparation of a statement when one is necessary. (b) Shall include brief discussions of the need for the proposal, of alternatives as required by Section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted (40 CFR 1508.9).
- "Environmental Impact Statement" means a detailed written statement as required by Section 102(2)(C) of the Act. Section 102(2)(C) of NEPA states "include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented" (40 CFR 1508.11). The scope of the NEPA process would depend on the type of federal approval needed and the scope of the lead agency's jurisdiction. Three plausible permitting scenarios have been identified based on the type of federal action triggering NEPA, the scope of the NEPA process, and how compliance with state and local regulations would be achieved. The following three scenarios are summarized in Table 4-2: NEPA, No State/Local Permitting Required, NEPA with State/Local Permitting, and Limited NEPA with State/Local Permitting.

Table 4-2. NEPA Permitting Scenarios

Table 4-2. NEFA Fermitting Scenarios					
	Scenario 1: NEPA, No State and Local Permitting Required	Scena NEPA with State		Scena Limited NEPA Local Pe	
Federal Action/NEPA Trigger	Federal ownership Incidental Take Permit	Federal funding Incidental Take Permit	Federal approvalIncidental Take Permit	Section 404 Permit for WoUS impacts Incidental Take Permit	 Endangered Species Act Section 10 Compliance Incidental Take Permit
Lead Federal Agency	BLM, USFS, WAPA, BOR, NPS, BIA, DOE USFWS	USDA, Rural Utilities Service USFWS	WAPABLMUSFS or other federal agencyUSFWS	USACE USFWS	USFWS USFWS
NEPA Scope	Full project	Limited to geographic scope of federal nexus		Limited to geograph nexus	ic scope of federal
State and Local Compliance	Accomplished through federal agency-led Environmental Analysis	Would require separate state and local permitting		Would require sepa permitting	rate state and local
Endangered Species Act Compliance	Section 7	Section 7		Section 10	



Page 4-4 January 2022

On July 16, 2020, the Council on Environmental Quality published the final rule to amend its regulations implementing NEPA, introducing important changes to the 40-year-old review process. This final rule issued an update limiting the length of time federal agencies spent to complete EIS and EAs under NEPA. According to this final rule, the timeframe for an EIS would be approximately 24 months, and the timeframe for an EA would be approximately 6 to 12 months.

In addition to the lead federal agency, other federal agencies, state agencies, or tribes may participate in the NEPA process as cooperating agencies. A cooperating agency has the responsibility to assist the lead agency by participating in the NEPA process at the earliest possible time, participate in the scoping process, develop information and preparing environmental analysis that the agency has special expertise, and make staff support available (EPA 2020).

For an EIS, NEPA compliance consists of the following public involvement requirements: scoping, and comments and response to comments on the draft EIS. As part of the scoping process, the lead federal agency is required to invite other agencies, tribes, and interested persons to participate in the NEPA process, and may choose to hold public scoping meetings. The lead federal agency must request comments on the draft EIS from the public, agencies, tribes, and the applicant. The lead federal agency must then respond to substantive comments on the draft EIS. The lead federal agency must provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies that may be interested or affected. The lead federal agency must also make the EIS, the comments received, and any underlying documents available to the public (42 U.S.C. § 1506.6).

4.2 U.S. Department of Energy, Western Area Power Administration

WAPA is one of four power marketing administrations within DOE. WAPA owns and maintains more than 10 percent of the transmission lines in the Western Electricity Coordinating Council area. In fiscal year 2019, WAPA operated and maintained more than 17,326 miles of transmission lines and nearly 324 substations in its operating area (WAPA 2019). Construction and operation of a wind energy facility with a gen-tie connection to a transmission line owned at least in part by WAPA would constitute a major federal action, which would trigger NEPA

compliance with WAPA as the lead federal agency. According to 10 CFR 1021, Appendix D (D6), integrating transmission facilities to a main transmission grid is a class of action normally requiring an EIS.

Wyoming is located in the Rocky Mountain Region, one of four regions of Western. A wind energy project would require an EIS if the proposed action included the addition of new generation resources greater than 50 average MW (averaged throughout a 1-year period) (10 CFR 1021, Appendix D (D7). An EA would be required if the proposed action would generate equal to or less than 50 average MW (10 CFR 1021, Appendix C (C7)).



Scenario 1 (**Table 4-2**) is characterized by a full EIS process with WAPA as the lead federal agency; no permitting is required for state and local level compliance. The federal action that would trigger this scenario for a project would be direct interconnection for the wind farm into a transmission line owned or managed by WAPA or if WAPA owned at least a portion of the gen-tie line or the transmission line that the gen-tie would connect into. WAPA would make every effort to ensure the project's compatibility with state and local permitting requirements, local land use plans, and zoning regulations.

Contact Information:

Rocky Mountain Region
P.O. Box 3700
Loveland, CO 80539-3003
(970) 461-7200 or 1-800-472-2306

4.3 U.S. Department of Agriculture

4.3.1 Rural Utilities Service

Federal funding could trigger NEPA compliance if RUS funding was requested for the development and construction of a wind energy facility, usually by a generation cooperative (**Table 4-2**). The Rural Electrification Act of 1936 authorized the USDA to make direct loans and loan guarantees to electric utilities to serve rural customers. Renewable energy systems, such as wind, can be financed through Guaranteed Loans (USDA 2020). RUS makes loans to corporations, states, territories and subdivisions, municipalities, people's utility districts, and cooperative, nonprofit, limited-divided, or mutual associations that provide retail electric service to rural areas or supply the power needs of distribution borrowers in rural areas (USDA 2020). If a RUS loan was requested for the development and construction of the wind facility, NEPA compliance would be required with RUS as the lead federal agency.

For projects in which the RUS applicant proposes to participate with other parties in the ownership of a project, RUS would determine whether a federal action exists by analyzing whether the applicant or applicants have "sufficient control to alter the development of a project." In multiple-party projects, RUS regulations provide the following guidance for determining the existence of a federal action:

- If all participating RUS applicants cumulatively own five percent or less of a project, it is not considered a federal action subject to NEPA;
- If all participating RUS applicants cumulatively own 33.3 percent or more of a project, it will
 constitute a federal action; and
- If all participating RUS applicants cumulatively own more than five percent but less than 33.3 percent of a project, the RUS will determine the existence of a federal action. The following factors may be used in such a determination:
 - Whether construction would be completed regardless of RUS financial assistance or approval;
 - The stage of planning and construction;
 - Total participation of the applicant(s);
 - Participation percentage of each utility; and
 - Managerial arrangements and contractual provisions (7 CFR § 1794.20).

If RUS determines that the project constitutes a federal action, the level of environmental review required would be determined by RUS guidance. Typically, the construction of electric generating



Page 4-6 January 2022

facilities of more than 20 MW but not more than 50 MW require an EA with scoping (7 CFR § 1794.24 (2)). Further guidance, however, states that: "Applications for financial assistance for certain proposed actions that may significantly affect the quality of the human environment shall require the preparation of an EIS" (7 CFR § 1794.25). This includes the construction of any electric generating facility of more than 50 MW. All new associated facilities and related electric power lines shall be covered in any EA or EIS that is prepared (7 CFR § 1794.24 (2)).

Contact Information:

RUS Electric Program Northern Regional Division Stop 1566 (Room 0243), 1400 Independence Avenue Washington DC 20250-1566 (202) 720-1420

4.3.2 U.S. Forest Service

The site testing and feasibility permit, and the permit for construction and operation of a wind energy facility, are the two types of permits that would be required for wind energy uses located on lands within USFS jurisdiction. Application requirements for both types of permits are included in the USFS Special Uses Handbook Chapter 70—Wind Energy Uses (Forest Service Handbook [FSH] 2709.11). The handbook also provides guidance on proposals (including pre-proposal meetings) for wind energy permits and resource considerations. A copy of the handbook is available at the following USFS website: http://www.fs.fed.us/specialuses/special_energy.shtml.

The USFS should be contacted as early as possible prior to submitting a proposal (36 CFR 251.54 (a)). The pre-proposal meeting will be used to explain the process for screening proposals, processing applications, and to identify any potential issues and conflicts.

Construction of a wind energy facility is prohibited in wilderness areas and wilderness study areas, in wild and scenic rivers, at national historic sites, on National Historic or National Scenic Trails, and in other special areas where federal law precludes land use for wind energy production. Any proposals for wind energy uses in any of these areas will be denied (FSH 2709.11, Chapter 72.2). **Table 4-3** lists the USFS forests, national grasslands, and special management areas including wilderness areas located within Wyoming.

Table 4-3. USFS Jurisdictions within Wyoming

National Forest/Grassland	Ranger District	Special Management Area
Bighorn National Forest	Tongue District Medicine Wheel/Paintrock District Powder River District	 Cloud Peak Wilderness Bighorn Scenic Byway Cloud Peak Skyway Medicine Wheel Passage
Bridger-Teton National Forest	Kemmerer Ranger District Big Piney Ranger District Greys River Ranger District Jackson Ranger District Blackrock Ranger District Pinedale Ranger District	Bridger Wilderness Togwotee Pass, Wyoming Centennial Scenic Byway Granite Creek Wild and Scenic River
Medicine Bow National Forest	Brush Creek–Hayden Ranger District Douglas Ranger District Laramie Ranger District	Huston Park Wilderness Encampment River Wilderness Platte River Wilderness Savage Run Wilderness Sarvis Creek Wilderness Flat Tops Wilderness Mount Zirkel Wilderness Snowy Range RNA Savage Run Wilderness

National Forest/Grassland	Ranger District	Special Management Area
Shoshone National Forest	Clarks Fork Ranger District Wapiti Ranger District Greybull Ranger District Washakie Ranger District Wind River Ranger District	 North Absaroka Wilderness Absaroka-Beartooth Wilderness Popo Agie Wilderness Fitzpatrick Wilderness Washakie Wilderness Wild and Scenic Clarks Fork River Tie Hack Memorial Brooks Lake Falls
Thunder Basin National Grassland	Brush Creek–Hayden Ranger District Douglas Ranger District Laramie Ranger District	Huston Park Wilderness Area Encampment River Wilderness Area Platte River Wilderness Area Savage Run Wilderness Area Snowy Range Scenic Byway

Site testing and feasibility permits are issued for MET towers or other instruments used to gather data regarding wind resources and to determine the feasibility of producing wind energy. There are two types of site testing and feasibility permits (FSH 2709.11):

- Minimum Area Permits—a land use authorization of up to 5 acres for the construction, operation, and removal of a MET or measuring instrument that is necessary for the appropriate study and evaluation of the wind resource; and
- Project Area Permit—a land use authorization of more than 5 acres for the construction, operation, and removal of multiple METs or measuring instruments that are necessary for the appropriate study and evaluation of the wind resource.

Construction and operation permits are issued for the construction, operation, and removal of a wind energy facility. Prior to issuance of a construction and operation permit, the feasibility of successfully producing wind energy within a proposed project area must be established; this is typically done through the analysis of data collected during site testing and feasibility permitting (FHS 2709.11, Chapter 71). The construction of roads needed to connect a proposed wind energy facility to existing forest roads would also be authorized under this permit. The use of National Forest Service (NFS) roads may be authorized either under this permit, or under a separate road use permit (FSM 7730.05 and 7731.17), or through a combination of the two.

Applying for both types of permits requires submittal of form SF-299, Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Properties. Applicants applying for a site testing and feasibility permit are required to also submit sufficient information regarding the location and tenure of METs and other testing equipment and procedures to complete appropriate environmental analysis (FSH 2709.11, Chapter 73.2). Applicants applying for a construction and operation permit are required to submit the following information with the SF-299 form:

- A study plan that includes survey outcomes from site testing and feasibility studies;
- A plan of development;
- A site plan (upon completion of project construction, the permit holder must submit as-built representation of the project);
- An annual operating plan; and
- A monitoring plan that addresses the potential effects on wildlife and any required mitigation measures discussed in the corresponding environmental analysis and site testing and feasibility studies.

Requests to use NFS lands for wind energy projects must comply with all applicable USFS procedures, regulations, and laws, including those required by NEPA. An Environmental Analysis for each type of wind energy permit will be reviewed as part of the application process and should



Page 4-8 January 2022

address only the proposed land use under consideration for authorization by the permit and connected actions essential to enabling that use (FSH 2709.11, Chapter 71). Connected actions include, but are not limited to, reconstruction of NFS roads and construction of power lines.

Applications for wind energy permits are subject to cost recovery fees for the processing and monitoring costs incurred by the agency. Once issued, SUPs are subject to an annual land use rental fee. A cash or surety bond may also be required. Once the application has been submitted, the agency will determine the appropriate cost recovery fees and will notify the applicant in writing. The agency will, within 60 days of receipt of a complete proposal, advise the proponent if the agency will accept the proposal as a formal application.

A summary of the permitting process is as follows:

- Pre-Proposal meeting with the USFS;
- Site testing and feasibility permit and Construction and operation permit through submittal of SF-299;
- Environmental Analysis; and
- Possible additional NEPA requirements.

Contact Information:

U.S. Forest Service, Rocky Mountain Region 1617 Cole Boulevard, Building 17 Lakewood, CO 80401 (303) 275-5350 TTD / TTY for the Hearing Impaired (303) 275-5367 U.S. Forest Service, Intermountain Region 324 25th Street Ogden, UT 84401 (801) 625-5605

4.3.3 U.S. Natural Resources Conservation Service/Farm Services Agency

The Natural Resources Conservation Service (NRCS) and Farm Services Agency exercises authority over the Farmland Protection Policy Act, which is intended to minimize the impact federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. NRCS identifies prime farmland, unique farmland, and land of statewide or local importance that may be subject to the Farmland Protection Policy Act.

Other programs managed by USDA include the Conservation Reserve Program and the Agriculture Conservation Easement Programs. Former NRCS easement Programs that may still impact private land include the Grasslands Reserve Program, Farm and Ranch Land Protection Program, and Wetlands Reserve Program. If renewable energy projects are located (in any part) on lands managed under these programs, additional coordination with the Farm Services Agency (for Conservation Reserve Program lands) or NRCS (for all land with an NRCS administered easement) may be required to avoid any breaches in the landowners' contracts. The completion of a Farmland Conversion Impact Rating (Form AD-1006) would be necessary for agricultural lands impacted by the renewable energy project. Individual NRCS and Farm Service Agency field offices should be identified once the project site is known. Form AD-1006 should be completed and submitted to NRCS once the project site has been identified and specific impacts to farmland are known. Applications would be processed within 45 days.

Contact Information:

NRCS State Office P.O. Box 33124 100 East B Street, 3rd Floor Casper, WY 82602-5011 (307) 233-6750 Farm Service Agency State Office 951 Werner Ct., Ste. 130 Casper, WY 82601 (307) 261-5231

4.4 U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) Region VIII office in Denver, Colorado, is responsible for enforcement of the CWA for the State of Wyoming. In some specific cases, EPA has delegated authority for implementation of the CWA to the state.

Contact Information:

U.S. EPA Region 8 8OC-EISC 1595 Wynkoop St. Denver, CO 80202-1129 (303) 312-6312 or 1-800-227-8917 8eisc@epa.gov

4.4.1 Clean Water Act, Section 401—Water Quality Certification

Under the CWA, a Section 401 Water Quality Certification is typically required for projects receiving an Individual Permit. This certification is not required with nationwide permits in Wyoming. A discussion of Section 401 Water Quality Certification for Wyoming is contained in **Section 3.2.1**.

4.4.2 Clean Water Act, Section 402—National Pollutant Discharge Elimination System

CWA Section 402 National Pollutant Discharge Elimination System (NPDES) permitting for point source discharges has been delegated to the WDEQ WQD. The EPA is responsible for reviewing compliance by industrial facilities (including construction sites and substations) with the stormwater regulations and the NPDES permitting program on Native American reservation lands within Wyoming. On June 27, 2019, EPA issued the 2017 amended Construction General Permit (CGP), which will provide coverage for eligible new and existing construction projects for a period of 5 years. The permit would apply only where EPA is the NPDES permitting authority (e.g., Native American lands within Wyoming).

EPA has delegated responsibility for construction stormwater permitting under the CWA to the WDEQ. **Sections 3.2.1**, **3.2.2**, and **3.3.3** describe these permitting processes.

Facilities with NPDES permits are required by regulations to have a SWPPP that identifies potential sources of pollution and describes methods by which a facility can reduce the amount of pollutants carried in stormwater and maintain compliance with permit conditions. The plan must be developed and implemented within 12 months of issuance of the NPDES permit.

EPA regulations found in 40 CFR Part 112 apply to facilities (including construction sites and substations) that have discharged, or due to their location could reasonably be expected to discharge, oil in harmful quantities. The regulations require that a Spill Prevention Control and Countermeasure (SPCC) Plan be prepared and certified for such facilities by a registered professional engineer to reduce hazards associated with the storage and distribution of oil.



Page 4-10 January 2022

EPA is generally given an opportunity to review and comment on Section 404 Permit applications by USACE. Direct discussions and coordination with EPA is generally not required by the entity requesting the permit, although EPA and other agency review time should be considered in the permit schedule.

Where EPA is the permitting authority, the CGP outlines a set of provisions construction operators must follow to comply with the requirements of the NPDES stormwater regulations. The CGP covers any site 1 acre and above, including smaller sites that are part of a larger common



plan of development or sale, and replaces and updates previous EPA permits.

The CGP requires operators of such construction sites to implement stormwater controls and develop SWPPPs to prevent sediment and other pollutants associated with construction sites from being discharged in stormwater runoff.

Operators of construction sites greater than 1 acre, or those designated by EPA, are required to submit an NOI to obtain permit coverage. Submission of a complete and accurate NOI eliminates the need to apply for an Individual Permit for a regulated discharge, unless EPA specifically notifies the discharger that an Individual Permit application must be submitted. The preferred

method of transmission of the NOI is via EPA's website: http://www.epa.gov/npdes/eNOI. **Section 3** describes stormwater permitting in Wyoming.

EPA's review of the NOI requires 7 days. The permit is considered to be issued on the date it is noticed in the Federal Register and posted on EPA's website as previously noted. The permit will be effective for 2 years from that date, ending at midnight on the anniversary of publication.

NPDES CGP permitting program on Native American lands requires the following:

- SWPPP—the plan must be developed and implemented within 12 months of issuance of the NPDES permit;
- SPCC Plan for applicable facilities;
- CGP covers any site 1 acre and larger, including smaller sites that are part of a larger common plan of development;
- NOI required to obtain permit coverage; and
- Individual Permits (in certain cases).

4.5 U.S. Army Corps of Engineers

4.5.1 Section 404—The Discharge of Dredged or Fill Material into Waters of the United States, Including Wetlands

While the EPA is responsible for implementing the CWA, the USACE is responsible for administering Section 404 of the CWA to permit dredge and fill operations in wetlands and other WoUS. The purpose of the Section 404 program is to ensure that the physical, biological, and

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chemical quality of the nation's water is protected from irresponsible and unregulated discharges of dredged or fill material that could permanently alter or destroy these valuable resources. Wyoming is entirely located within the USACE Northwest Division, Omaha District regulatory area of responsibility. The Wyoming Regulatory Office, located in Cheyenne, is responsible for administering Section 404 of the CWA throughout the entire state.

USACE has two primary permitting options to authorize impacts to aquatics resources associated with wind energy development: NWP or standard permits, also referred to as Individual Permits. NWPs were established to streamline Section 404 permitting for projects that result in no more than minimal impacts to aquatic resources. The three NWPs that are most applicable to wind energy projects are NWP 14 for linear transportation projects, NWP 51 for land-based renewable energy generation facilities, and NWP 57 for electric utility line and telecommunications activities. Projects that exceed the impact thresholds of the NWPs are subject to the standard permit process. More information for each permitting option is described below.

Regarding potential impacts to aquatic resources, it is assumed that proposed wind energy developments would be designed to largely avoid wetlands and other WoUS. Wind energy development would typically be located in upland areas and associated utility lines would span surface water features and most wetlands. Other project components, such as access roads, substations, construction laydown or staging areas, and other ancillary project features, would also need to be evaluated for potential to impact wetlands and WoUS. This suite of features may result in temporary and/or permanent impacts. Both temporary and permanent impacts are regulated by Section 404 of the CWA.

4.5.1.1 Nationwide Permits

NWPs are updated and re-issued on a 5-year cycle. On January 13, 2021, the USACE published a final rule in the Federal Register (86 FR 2744) announcing the reissuance of 12 existing NWPs and issuance of four new NWPs, as well as the reissuance of NWP general conditions and definitions with some modifications. The 12 reissued NWPs replace the 2017 versions of those permits, which expired on March 14, 2021. All activities authorized by the remaining 40 NWPs from 2017 remain authorized until the March 18, 2022 expiration date.

A pre-construction notification is required for most activities authorized by NWPs. The Wyoming Regulatory Office typically process NWP verifications within 45 days of receiving a complete pre-construction notification. A brief summary of NWP 14, NWP 51, and NWP 57 is provided below.

Nationwide Permit 14 – Linear Transportation Projects

Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in WoUS, provided the activity does not result in the loss of greater than 0.5 acre of WoUS for each single and complete project. This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Additional information regarding NWP 14 can be found at the following link: https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll7/id/7822.

The pre-construction notification thresholds for NWP 14 are as follows:

- · The loss of WoUS exceeds one-tenth acre; or
- There is a discharge in a special aquatic site, including wetlands.

Important notes for NWP 14:



Page 4-12 January 2022

- For linear transportation projects crossing a single waterbody more than once at separate and distant locations or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization.
- For NWP 14 activities that require a pre-construction notice, the notice must include any
 other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used
 to authorize any part of the proposed project or any related activity, including other separate
 and distant crossings that require USACE authorization but do not require a pre-construction
 notice.
- Compensatory mitigation is required for projects that result in a loss of greater than one-tenth acre of wetland. See general condition 23.

Nationwide Permit 51 – Land-based Renewable Energy Generation Facilities

This NWP authorizes the discharges of dredged or fill material into non-tidal WoUS for the construction, expansion, or modification of land-based renewable energy production facilities, including attendant features. Such facilities include infrastructure to collect solar (concentrating solar power and photovoltaic), wind, biomass, or geothermal energy. Attendant features may include, but are not limited to, roads, parking lots, and stormwater management facilities within the land-based renewable energy generation facility. Additional information regarding NWP 51 can be found at the following link: https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll7/id/17535.

The discharge must not cause the loss of greater than 0.5 acre of non-tidal WoUS. The discharge also must not cause the loss of more than 300 linear feet of stream bed unless, in the case of intermittent and ephemeral stream beds, the district engineer waives the 300-linear-foot limit by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects. The loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by NWP activity may not exceed 0.5 acre.

Pre-construction notification threshold for NWP 51:

• The permittee must submit a pre-construction notification prior to commencing the activity if the discharge results in the loss of greater than one-tenth acre of WoUS, including wetlands.

Important notes regarding NWP 51:

- Utility lines constructed to transfer the energy from the land-based renewable energy
 generation facility to a distribution system, regional grid, or other facility are generally
 considered to be linear projects, and each separate and distant crossing of a waterbody is
 eligible for treatment as a separate single and complete linear project.
- For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the pre-construction and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.
- Compensatory mitigation is required for projects that result in a loss of greater than one-tenth acre of wetland. See general condition 23.

Nationwide Permit 57 – Electric Utility Line and Telecommunications Activities

This NWP authorizes the discharges of dredged or fill material into WoUS, and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of electric utility lines and telecommunication lines. An "electric utility line and telecommunication line" is defined as any cable, line, fiber optic line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and Internet, radio, and

January 2022 Page 4-13



television communication. Attendant features may include, but are not limited to, electric utility line and telecommunications substations, foundations for overhead electric utility line or telecommunication line towers, poles, and anchors, and access roads. Additional information regarding NWP 57 is available at the following link:

https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll7/id/17530.

The discharge must not cause the loss of greater than 0.5 acre of non-tidal WoUS. Material resulting from trench excavation may be temporarily sidecast into WoUS for no more than 3 months. The district engineer may extend the period of temporary sidecasting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. Any exposed slopes and stream banks must be stabilized immediately upon completion of the electric utility line or telecommunication line crossing of each waterbody.

Pre-construction notification threshold for NWP 57:

- The permittee must submit a pre-construction notification prior to commencing the activity if:
- A Section 10 permit is required; note that Flaming Gorge Reservoir is the only Section 10 waterway in Wyoming; or
- If the discharge results in the loss of greater than one-tenth acre of WoUS.

Important notes regarding NWP 57:

- Utility lines constructed to transfer the energy from the land-based renewable energy
 generation facility to a distribution system, regional grid, or other facility are generally
 considered to be linear projects, and each separate and distant crossing of a waterbody is
 eligible for treatment as a separate single and complete linear project.
- For any activity that involves the construction of a wind energy generating structure or overhead transmission line, a copy of the pre-construction and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.
- Compensatory mitigation is required for projects that result in a loss of greater than one-tenth acre of wetland. See general condition 23.

4.5.1.2 Standard Permits

A project that does not qualify for a NWP authorization is to be reviewed through the standard permit process (see 33 CFR 325.5(b)(1)), which includes a public notice, public interest review, environmental documentation, and, if applicable, a Section 404(b)(1) guidelines compliance analysis. The public notice is distributed within 15 days of receipt of a complete application, and the comment period is typically set for 30 days. An analysis of alternatives is explored to determine the least environmentally damaging practicable alternative that meets the purpose and need of the proposed project. USACE strives to issue standard permits in 120 days. That timeframe can be exceeded with large, dynamic projects with increased public interest.

The Wyoming Regulatory Office advises that applicants and their agents request a preapplication meeting prior to submitting a standard permit application.

Contact Information:

U.S. Army Corps of Engineers Wyoming Regulatory Office 2232 Dell Range Blvd, Suite 210 Cheyenne, WY 82009



Page 4-14 January 2022

(307) 772-2300 wyoming.reg@usace.army.mil

4.6 National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA; 16 U.S.C. 470f—Advisory Council on Historic Preservation, comment on federal undertakings) mandates federal agencies undergo a review process for all federally funded or permitted projects that will impact sites listed on, or eligible for listing on, the National Register of Historic Places. Specifically, it requires the federal agency to "take into account" the effect a project may have on historic properties. It allows interested parties an opportunity to comment on the potential impact projects may have on significant archaeological or historic properties. The main purpose for the establishment of the Section 106 review process is to minimize potential harm and damage to historic properties.

Under Section 106, the lead federal agency, in consultation with the land managing agency, must identify and assess the effects of renewable energy development projects on historic properties. Typically, the project proponent funds the technical studies required to accomplish the identification and assessment effort. The lead federal agency must consult with the SHPO, land

managing agency, other appropriate state and local officials, Native American tribes, applicants for federal assistance, and members of the public, and consider their views and concerns about historic preservation issues when making final initiative decisions (ACHP 2020). Effects are addressed by mutual agreement, usually among the SHPO or the Tribal Historic Preservation Officer, the lead federal agency, and any other involved parties (ACHP 2020).



Most often in the case of large-scale undertakings, Section 106 compliance is managed through the use of a Programmatic Agreement. The Programmatic Agreement identifies the roles and responsibilities of the involved parties on the project; spells out the process for identifying, evaluating, and mitigating effects on historic properties; and offers the advantage of the flexibility to respond to project changes. The Programmatic Agreement is signed by the lead federal agency, the SHPO, the Advisory Council on Historic Preservation (if it desires), the project proponent, and other involved parties.

A summary of Section 106 review process involves the following:

- Lead federal agency in consultation with the land managing agency, identifies and assesses effects of project on historic properties;
- Technical studies (funded by project proponent usually);
- Lead federal agency consults with SHPO, land managing agency, other appropriate state and local officials, Native American tribes, and members of the public to reach mutual agreement concerning effects;
- In large projects, a Programmatic Agreement manages Section 106 compliance and is signed by all involved parties; and

 The Programmatic Agreement identifies roles and responsibilities for the project and establishes the process for identifying, evaluating, and mitigating effects on historic properties.

Contact Information:

Wyoming State Historic Preservation Office

2301 Central Avenue Barrett Building, Third Floor Cheyenne, Wyoming 82002 Phone: 307-777-7697

http://www.wyoshpo.state.wy.us/Contact/Staff.aspx

Wyoming Cultural Records Office

Department 3431

1000 E. University Avenue Laramie, Wyoming 82071 Phone: 307-766-5323 Fax: 307-766-4262

(Department of Anthropology 12th and Lewis, 3rd floor)

4.7 U.S. Fish and Wildlife Service

Early project coordination with the USFWS is an important consideration for achieving compliance with the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703), the Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668), and the Endangered Species Act (ESA; 16 U.S.C. 1531 et seq.). Planning a wind energy development that reduces wildlife conflicts can reduce liabilities under these statutes and lower project costs by minimizing repeated site modifications in response to wildlife issues. Data and information gathered in accordance with USFWS guidelines, and evaluated in coordination with USFWS Wyoming Field Office biologists, will assist developers in planning projects that will avoid and minimize impacts to USFWS trust resources.

Contact Information:

U.S. Fish and Wildlife Service Wyoming Ecological Services Office 5353 Yellowstone Road, Suite 308A Cheyenne, WY 82009 http://www.fws.gov/wyominges/

4.7.1 Wind Energy Guidelines

The USFWS, in conjunction with the Wind Turbine Guidelines Federal Advisory Committee, developed Land-Based Wind Energy Guidelines (WEG; USFWS 2012), which are designed to help wind energy project developers avoid and minimize impacts of land-based wind projects on wildlife and their habitats. These guidelines are voluntary and are provided to assist project developers in meeting their responsibilities under the ESA, MBTA, and BGEPA. Developers are encouraged to consult with the USFWS as early as possible in the development of a wind energy facility.

The WEG assist developers in identifying species of concern that may potentially be affected by their proposed project, including migratory birds; bats; bald and golden eagles and other birds of prey; prairie and sage grouse; and listed, proposed, or candidate endangered and threatened species. These impacts may include:

- Collisions with wind turbines and associated infrastructure; loss and degradation of habitat from turbines and infrastructure;
- Fragmentation of large habitat blocks into smaller segments that may not support sensitive species;
- Displacement and behavioral changes; and



Page 4-16 January 2022

Indirect effects such as increased predator populations or introduction of invasive plants.

The WEG use a "tiered approach" for assessing potential adverse effects to species of concern and their habitats. The tiered approach is an iterative decision-making process for collecting information in increasing detail; quantifying the possible risks of proposed wind energy projects to species of concern and habitats; and evaluating those risks to make siting, construction, and operation decisions. The five tiers address the following approaches:

- Tier 1—Preliminary site evaluation (landscape-scale screening of possible project sites)
- Tier 2—Site characterization (broad characterization of one or more potential project sites)
- Tier 3—Field studies to document site wildlife and habitat and predict project impacts
- Tier 4—Post-construction studies to estimate impacts
- Tier 5—Other post-construction studies and research

The tiered approach provides the opportunity for evaluation and decision-making at each stage, enabling a developer to abandon or proceed with project development, or to collect additional information if required.

The final WEG and all associated materials are available at the following website: https://www.fws.gov/ecological-services/energy-development/wind.html.

4.7.2 Endangered Species Act

The ESA directs all federal agencies to participate in conserving endangered, threatened, and proposed species, and their designated critical habitats. Specifically, section 7(a)(1) of the ESA charges federal agencies to aid in the conservation of listed species, and section 7 (a)(2) requires agencies to ensure their activities are not likely to jeopardize the continued existence of listed species or adversely modify designated critical habitats.

The provision under section 7(a)(2) of the ESA requires federal agencies to consult with the USFWS to ensure that actions they fund, authorize, permit, or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitats. Regulations detailing the consultation process can be found at: https://www.fws.gov/endangered/esa-library/pdf/esa-section7 handbook.pdf.

Section 10(a)(1)(B) of the ESA allows non-federal parties planning activities that have no federal nexus, but which could result in the incidental taking of listed animals, to apply for an incidental take permit. The application must include a Habitat Conservation Plan that lays out the proposed actions, determines the effects of those actions on affected fish and wildlife species and their habitats (often including proposed or candidate species), and defines measures to minimize and mitigate adverse effects. The handbook for Habitat Conservation Planning and Incidental Take Permit Processing should be referenced for further information and can be found online at: https://www.fws.gov/endangered/what-we-do/hcp_handbook-chapters.html.

Lists of threatened, endangered, proposed, and candidate species for all counties in Wyoming are available on the USFWS Wyoming Field Office website: https://www.fws.gov/wyominges/species WYESlist.php.

January 2022 Page 4-17

4.7.3 Migratory Bird Treaty Act

The MBTA implements the United States' obligations under four international treaties for the protection of migratory birds which includes more than 1,000 species (Federal Register; 50 CFR 10 and 21), including the bald eagle and golden eagle. The MBTA is administered by the USFWS and prohibits "take" of migratory birds—their parts, eggs, or nests "at any time, by any means." "Take" is defined by the MBTA as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities." A "take" does not include habitat destruction or alteration, as long as it does not involve a direct taking of birds, nests, or eggs. The definition of "take" does not include the broader terms of "harass" or "harm" that have been found to prohibit incidental take under other federal wildlife protection laws. Incidental take has been defined by USFWS as "the taking of migratory birds that results from an activity but is not the purpose the activity".

Currently, federal Circuit Courts are not in agreement on the issue of whether incidental take is a violation of MBTA. The 10th Circuit Court which covers Wyoming ruled in 2010 (U. S. vs Apollo Industries, Inc., 611 F.3d 679 [2010]) that MBTA does prohibit incidental take. There has been varying guidance from the USFWS on the prohibition of incidental take under the MBTA. The USFWS published a final rule, effective December 3, 2021, which re-establishes incidental take as a violation of MBTA subject to judicial precedent.

It is not a violation of the MBTA to destroy an inactive migratory bird nest (a nest that is empty or contains non-viable eggs) but it is not legal to keep or possess the nest. Although inactive eagle nests are protected by BGEPA. Permits are required to relocate or destroy an active nest. In the case of utilities, authorization to destroy or relocate active and inactive nests is covered by obtaining a Special Purpose – Utility (https://www.fws.gov/forms/3-200-81.pdf) permit. The USFWS Wyoming Field Office should be contacted for wind energy development projects prior to construction for further guidance.

4.7.4 Bald and Golden Eagle Protection Act

The BGEPA prohibits taking, possessing, or transporting any bald eagle or golden eagle or their parts, nests, or eggs without prior authorization. "Take" under this statute is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb" (50 CFR. § 22.3). "Disturb" is defined as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (50 CFR 22.3 and see also 72 FR 31132). Any take, intentional or incidental is prohibited under BGEPA.

The BGEPA is administered by the USFWS which is allowed to issue permits for certain types of take. The USFWS has issued regulations concerning these permit procedures (50 CFR 22.25, 22.26, and 22.27) that specify the application requirements as well as the issuance criteria that must be met in order for a permit to be issued. Permits can be obtained under BGEPA for; scientific and exhibition purposes, religious purpose, depredation, nest removal, disturbance, and incidental take. Information on Eagle Take Permits can be found at: https://www.fws.gov/mountain-prairie/migbirds/permits.php.

Whether or not a permit is sought or issued, the use of Avian Protection Plans, Eagle Conservation Plans, or other Service-approved conservation plans that are consistent with the goal of stable or increasing eagle breeding populations may be useful in addressing eagle conservation.



Page 4-18 January 2022

For information on bald and golden eagles, please refer to the USFWS website at: https://www.fws.gov/birds/management/managed-species/bald-and-golden-eagle-information.php. For information on Eagle Conservation Plan development, see: https://www.fws.gov/migratorybirds/pdf/management/eagleconservationplanguidance.pdf.

4.7.5 National Wildlife Refuges

The Secretary of the Interior may permit the use of any area within the National Wildlife Refuge (NWR) System as long as the use is deemed "compatible" with the primary purposes for which the refuge was established and the goals of the National Wildlife Refuge System. The USFWS Manual states: "Uses that we reasonably may anticipate to reduce the quality or quantity or fragment habitats on a national wildlife refuge will not be compatible" (USFWS Manual 603 FW 2; USFWS 2000).

Wyoming has the following seven National Wildlife Refuges:

- National Elk Refuge NWR
- Seedskadee NWR
- Cokeville Meadows NWR
- Pathfinder NWR
- Mortenson Lake NWR
- Bamforth NWR
- Hutton Lake NWR

Acquisition of the ROW and use authorization requires a Compatibility Determination and submittal of an application for SUP to Cross Federal Lands using SF-299. The issuance of permits may also trigger additional NEPA requirements for all or portions of renewable energy development projects located on USFWS-managed lands.

4.8 U.S. Federal Energy Regulatory Commission and North American Electric Reliability Corporation

It is unlikely that the U.S. Federal Energy Regulatory Commission (FERC) would play a permitting or regulatory role for Wyoming public utilities constructing wind facilities because the responsibility for the oversight of those facilities rests primarily with the WPSC, as described in Section 3.5.

The North American Electric Reliability Corporation (NERC) is a non-government organization that was granted the status of the Electric Reliability Organization by FERC in 2007. The Electric Reliability Organization status enables NERC to prescribe compliance standards, adjudicate compliance, and levy monetary penalties. All bulk power system owners, operators, and users must comply with approved NERC reliability standards for the substation protection and transmission interconnection. These entities are required to register with NERC through the appropriate regional entity.

Contact Information:

Federal Energy Regulatory Commission 888 First Street, NE Washington, DC 20426 (202) 502-6088 TTY: (202) 502-8659 |Toll-free: 1-866-208-3372

Email: customer@ferc.gov



4.9 U.S. Federal Highway Administration

4.9.1 Utility Crossings/Encroachments

Typically, renewable energy development would not involve the Federal Highway Administration (FHWA) unless associated facilities such as transmission line(s) and roadways crossed, encroached, or connected to the National Highway System and/or Interstate Highway System. The FHWA must be consulted and permits must be secured for utility crossings or encroachments on the National Highway System and/or the Interstate Highway System.

4.9.2 Utility Permit/Road Crossing Permit

State transportation agencies' utility accommodation policies for federal-aid highways are approved by FHWA per 23 CFR § 645.215 before they can be applied to federal-aid highway projects in that state. Federal-aid highways include interstates and highways of the National Highway System. The utility permit or road crossing permit application would be handled through the respective state departments of transportation and a referral review would be provided to FHWA. When a utility applies for a permit to occupy a federal-aid highway, the state transportation department is not required to submit the matter to FHWA for concurrence, except when the proposed project is not in accordance with federal regulations or with the state's FHWA utility accommodation policy for federal-aid highway projects (23 CFR § 645.215(d)). In such a case, the proposed permit would be submitted to the FHWA Division Administrator for approval.

4.9.3 Overweight Permit

According to 23 CFR § 657.5, it is FHWA policy that each state enforce vehicle size and weight laws to discourage violations so that vehicles traversing the highway system do not exceed the limits specified by the law. Federal highways used to transport equipment or materials associated with construction and/or operation of a wind energy development would require an Overweight Permit issued through the WYDOT (see **Section 3.9**).

Contact Information:

Federal Highway Administration, Wyoming Division 2617 East Lincolnway, Suite D Cheyenne, WY 82001-5671 (307) 772-2101

4.10 U.S. Department of Defense

In addition to managing both lands and airspace within Wyoming, the DOD also operates two military facilities—the Francis E. Warren Air Force Base located in Cheyenne, and the U.S. Army's Camp Guernsey located in Guernsey. Warren Air Force Base also manages a strategic missile wing, with intercontinental missiles and associated facilities scattered on small parcels throughout the southeastern corner of the state and in the adjoining states of Nebraska and Colorado.

Because of the constraints involved with constructing and operating renewable energy projects and associated transmission lines within, or in close proximity to, DOD facilities and training areas, these areas are typically avoided or identified as sensitive areas in the corridor identification process. Were a transmission route selected that crosses military bases or other lands managed by the DOD, approval from the secretary of the military department that owns the land would be required (10 USC 2668). If potential transmission crossings of DOD lands are identified in close proximity to a facility, the developer would work with the appropriate DOD



Page 4-20 January 2022

department, DOD Regional Lead, and individual base management to determine the appropriate review process and timeframe.

Similarly, if the wind facility or any affiliated transmission line route were to be located within a DOD-designated Special Use Airspace or Military Training Route, the individual military facility and the DOD Regional Lead would be contacted by the developer of the wind energy project. DOD would make a determination whether the proposed project would conflict with the mission of the facility. If no conflict is identified, the project would be permitted through the NEPA process. It is not likely that a DOD agency would be the lead federal agency for NEPA because the length of the route through DOD-managed lands would typically be minimal.

DOD operates a Siting Clearinghouse website that provides early consultation with regard to airspace conflict or constraints (http://www.acq.osd.mil/dodsc/). Of particular interest may be the section detailing how to submit a project for informal early review by DOD. Created by DOD in 2010, and further shaped by Congress in the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, the Siting Clearinghouse provides a "one-stop-shop" for comprehensive, expedited evaluation of energy projects and their potential effect on DOD operations.

The Clearinghouse's formal review process applies to projects filed with the Secretary of Transportation, under section 44718 of title 49, U.S. Code (FAA obstruction evaluation process), as well as other projects proposed for construction within military training routes or special use airspace, whether on private, state, or federal property. Questions, project documentation, and inquiries about other procedures can be submitted to the Clearinghouse via the following email address: DoDSitingClearinghouse@osd.mil.

No permit processing timeframe has been identified; however, it would be expected to take a minimum of 6 months once the request has been submitted to the DOD.

Regional Contact Information:

Office of the Assistant Secretary of the Army Region 8 Program Coordinator 721 19th Street, Suite 427
Denver, CO 80202-2500
(303) 844-0958

National Contact Information:

DOD SITING CLEARINGHOUSE 3400 Defense Pentagon, Room 5C646, Washington, DC 20301-3400 DoDSitingClearinghouse@osd.mil

4.11 U.S. Department of Interior

4.11.1 U.S. Bureau of Indian Affairs

The role of the U.S. BIA in tribal coordination is explained as follows (BIA 2020):

The United States has a unique legal and political relationship with Indian tribes and Alaska Native entities as provided by the Constitution of the United States, treaties, court decisions, and federal statutes. Within the government-to-government relationship, Indian Affairs provides services directly or through contracts, grants, or compacts to 567 federally recognized tribes.

If a wind farm is located on or adjacent to tribal lands, the appropriate tribes and BIA should be consulted. Utilities crossing tribal lands may require permits as determined by the tribal offices

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and BIA. The issuance of permits and ROW grants may trigger NEPA requirements for all or portions of wind farms and/or electric transmission projects located on tribal lands.

Tribal nations have a special status within the United States. The courts have found them to be "domestic dependent nations" that exercise sovereignty within their own territories. They existed as sovereign entities before the arrival of European immigrants, and the treaties between them and the government of the United States were treaties between sovereign governments. While Native Americans have ceded lands and been removed from their ancestral homelands, in many cases they have reserved rights on the lands they ceded, such as access to traditional hunting grounds, fishing areas, and sacred landscapes. Even federal lands where no treaty rights have been reserved include cultural properties important to Native American religion and culture.

Because traditional tribal territories usually extend well beyond modern reservation boundaries, steps should be taken to assess which tribes may have areas of traditional use within a wind farm project study area. Some of the federally recognized tribes and tribes with traditional use areas within the state of Wyoming are listed in **Table 4-4**. Once the site plan and/or routes of the proposed transmission line are known, the tribal offices should be contacted for further information.

Table 4-4. Federally Recognized Tribes and Tribes with Traditional Use Areas

Tribe	Address	Town	State	Zip
Arapaho Tribe of the Wind River Reservation	P.O. Box 396	Ft. Washakie	WY	82514
Shoshone Tribe of Wind River Reservation	P.O. Box 217	Ft. Washakie	WY	82514
Oglala Sioux Tribe of the Pine Ridge Reservation	P.O. Box 2070	Pine Ridge	SD	57770
Rosebud Sioux Tribe	P.O. Box 430	Rosebud	SD	57570
Crow Tribe	P.O. Box 159	Crow Agency	MT	59022
Northern Cheyenne Tribe	P.O. Box 128	Lame Deer	MT	59043
Ute Indian Tribe of the Uintah and Ouray Reservation	P.O. Box 190	Ft. Duchesne	UT	84026
Ysleta del Sur Pueblo	119 S. Old Pueblo Rd	El Paso	TX	79917

If a wind farm is located on or adjacent to tribal lands, the appropriate tribes and BIA should be consulted. Utilities crossing tribal lands may require permits as determined by the tribal offices and BIA. The issuance of permits and ROW grants may trigger NEPA requirements for all or portions of wind farms and/or electric transmission projects located on tribal lands. Once the turbine layout and/or routes of the proposed transmission line are known, the tribal offices should be contacted for further information.

The NEPA lead agency should be consulted for a complete list of tribes that have traditional use areas in a proposed project area. The NEPA lead agency will consult with tribes following the NHPA Section 106 process. The goal of the NHPA is to have federal agencies act as responsible stewards of the nation's resources when their actions affect historic properties. Section 106 of the NHPA applies when two thresholds are met: 1) there is a federal or federally licensed action, including grants, licenses, and permits, and 2) that action has the potential to affect properties listed in or eligible for listing in the National Register of Historic Places. **Section 4.6**, National Historic Preservation Act, provides additional information.

There are two federally recognized Indian tribes in Wyoming—the Shoshone and Arapaho tribes. They share a single Indian reservation at Wind River. The Wind River Reservation is located in southwestern Wyoming near Lander. This reservation is home to more than 3,900 Eastern Shoshone and 8,600 Northern Arapahoe enrolled tribal members and contains about 2,268,000 acres of land within its exterior boundary. There are about 1,820,766 acres of tribal and allotted surface trust acreage.



Page 4-22 January 2022

There are 12 BIA regional offices with the agencies located at the reservation level. The Wind River Agency is in the Rocky Mountain Regional Office and serves the Arapaho Business Committee and Shoshone Business Committee. It will be necessary to consult with the BIA Wind River Agency, and the individual tribes for specific permits and steps required for a project.

The following is a summary of the NEPA permitting process:

- Consultation with NEPA Lead Agency
- NEPA Lead Agency consults with tribes under NHPA Section 106
- Additional outreach from the project proponent (in certain cases)
- NEPA process

Contact Information:

Wind River Agency Bureau of Indian Affairs P.O. Box 158 Fort Washakie, WY 82514

4.11.2 U.S. Bureau of Land Management

The BLM has approved wind energy projects on public lands since 1982. As of May 2021, there were 36 BLM-approved wind energy projects on public lands with a combined total of over 2,900 MW of approved capacity (BLM 2021). The BLM and DOE prepared a Final Programmatic Environmental Impact Statement in to evaluate issues associated with wind energy development on public lands in eleven western states (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming) administered by the BLM. The Final Wind Energy Programmatic EIS (Wind PEIS) was completed in June 2005. Since then, numerous land use plan revisions and amendments have changed the boundaries of the



excluded lands. The BLM's Wind Energy Development PEIS Information Center is an online resource that provides a repository of documents and information related to development of the Wind PEIS, as well as periodic updates on the BLM Wind Energy Program.

The BLM processes applications for wind energy projects under ROWs authorized by Title V of the Federal Land Policy and Management Act under 43 CFR 2800. A ROW grant application (SF-299) would be required from BLM for renewable energy development projects located on lands within BLM jurisdiction.

Previous Instruction Memorandums of the past such as IM-2011-061 have been replaced by the Wind and Solar Rule enacted on January 18, 2017, which amended Title V of the Federal Land Policy and Management Act and Title 43, Part 2800, of the CFR. ROW grants for renewable energy were amended by this rule. The BLM can advise and interact with an applicant to discuss the application process before an application and fee are submitted.

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The requirements for a complete application are provided in 43 CFR, 2804.12, and all applications must submit an application fee as specified in 43 CFR 2804.13 (c) (2). Any application that is submitted without the application fee or with any of the application requirements incomplete will be considered deficient and returned to the applicant. The BLM will provide adequate notice of deficiency, with specific requests that must be satisfied within specific timeframes before an application can proceed under 43 CFR 2809 or 43 CFR 2804.25, as applicable. After an application has been reviewed, screened, and examined with regard to maps, preliminary plan of development, resource data collected, qualifications of a ROW holder, and financial and technical capability, the BLM will make a preliminary decision to move forward with its processing. Upon receipt of a completed ROW application that includes all of the requested additional items listed above, BLM will make a determination whether a decision (acceptance of the application) can be issued within 60 calendar days. If BLM cannot process the application within 60 calendar days, they will send a letter by day 30 to notify the applicant including an estimated date for a decision to be issued. However, because additional work will need to be completed before the BLM can initiate the environmental analysis, the decision to accept the application does not automatically trigger the NEPA phase. Within 6 months, the BLM will schedule two applicant coordination meetings with 1) the BLM team (specialists) to discuss the general project proposal, the land use plan governing the project area, potential siting issues or concerns, potential alternative site locations, etc., and 2) a meeting with appropriate federal and state agencies (USFWS and WGFD) to facilitate coordination and potential siting issues and concerns.

Early coordination with USFWS and the WGFD will facilitate siting the project in the most environmentally suitable area. This interaction provides an opportunity to direct development away from lands with high conflict or sensitive resource values toward low-conflict areas such as previously disturbed sites or locations that minimize construction of roads and/or transmission lines. The plan of development can be modified by the applicant in conjunction with input from these agencies. Required resource data can be collected to comply with recommended guidelines, and the applicant will make the decision when to finalize the plan of development. The BLM will rely on the input from these agencies and the overall decision by the applicant to determine when the plan of development is final. At such time, the Authorized Officer of the BLM will move to the environmental analysis phase, and the application phase will conclude.

The updated guidance on the review of ROW applications directs BLM offices to identify and prioritize "applications that have the fewest resource conflicts and the greatest likelihood of success in the permitting process." To do this, applicants need to develop projects on federal lands that avoid and minimize resource conflicts, coordinate their efforts with federal and state partners early and often, collect all applicable resource and cultural data, and refine their plans of development. BLM will not accept a plan of development that is simply a conceptual plan of development, and it must be of sufficient detail to provide the basic information necessary to begin the environmental analysis and review process for the proposed wind energy developmental project.

ROW grant applications are filed with the BLM field office having jurisdiction over the lands affected by the application. Prospective applicants are encouraged to contact the BLM field office to speak with a realty specialist. One or two discussions will be provided by the BLM at no cost. BLM will not engage in any work on a conceptual or proposed project until an application and appropriate fee is submitted. The burden to conduct business on federal lands rests with the applicant. If the application affects more than one BLM administrative unit, the applications may be filed at any BLM office having jurisdiction over any part of the project (43 CFR 2804.11(b)). In addition to the SF-299 form, the BLM may request any additional information necessary to



Page 4-24 January 2022

process the application (43 CFR 2804.25 (2) (c). Examples of information required for a complete application include:

- A list of any federal and state approvals required for the proposal;
- A description of alternative route(s) and mode(s) considered when developing the proposal;
- Copies of, or reference to, all similar applications or grants submitted, currently held, or held in the past;
- A statement of the need and economic feasibility of the proposed project;
- The estimated schedule for constructing, operating, maintaining, and terminating the project (a plan of development);
- A map of the project showing its proposed location and existing facilities adjacent to the proposal;
- A statement certifying that the applicant is of legal age and authorized to do business in the state(s) where the ROW would be located, and has submitted correct information to the best of their knowledge;
- A statement of the environmental, social, and economic effects of the proposal;
- A statement of financial and technical capability to construct, operate, maintain, and terminate the project;
- Proof that the applicant is a United States citizen; and
- Any other information BLM considers necessary to process the application.

BLM's goal is to facilitate responsible renewable energy development on BLM-managed public lands and ensure that the American taxpayer receives fair market value for such development. The screening and prioritization process provides an opportunity to direct development away from high-conflict areas or sensitive resources toward low-conflict areas. Applications with low-resource conflicts are generally considered projects that can be more easily processed by the BLM and are typically given higher priority for processing than an application with high-resource conflicts that are typically considered more difficult to process.

4.11.2.1 Competitive Leasing Rule

On January 18, 2017, the BLM's Competitive Leasing Rule for Solar and Wind Energy Development went into effect governing solar and wind energy development on public lands (43 CFR 2800). The rule strengthens existing policies and created a leasing program that will support renewable energy development and includes provisions to promote the use of preferred areas for solar and wind energy development, called "designated leasing areas". Notably, the rule:

- Supports development in areas with the highest generation potential and fewest resource conflicts through financial incentives, awarding leases through competitive processes and streamlining the leasing process;
- Ensures transparency and predictability in rents and fees for example, gives developers the
 option of selecting fixed rate adjustments instead of market-based adjustments; and
- Updates the BLM's current fee structure in response to market conditions, which will bring down near-term costs for projects.

Copies of the rule and a fact sheet explaining the key changes between the proposed and final rules are available on BLM's website: https://www.blm.gov/programs/energy-and-minerals/renewable-energy/laws/solar-and-wind-energy-rule.

January 2022 Page 4-25

4.11.2.2 **Bonding**

Pursuant to BLM's Instruction Memorandum 2009-043 issued in December 2008, a bond will be required for all developmental grants to ensure compliance with the terms and conditions of the ROW authorization and the requirements of applicable regulatory requirements. The amount of the bond may include potential reclamation and administrative costs to BLM. The amount of the required bond will be determined during the ROW authorization process on the basis of site-specific and project-specific factors. Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury bonds equal in value to the bond amount, or surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the BLM. A letter of credit is not an acceptable form of bond. All bonds will be periodically reviewed (at least every 5 years) by the BLM authorized officer (i.e., field manager) to ensure adequacy of the bond.

4.11.2.3 Wyoming Renewable Energy Program

BLM Wyoming continues to facilitate the planned, orderly, and responsible development of renewable energy resources and associated transmission facilities. BLM Wyoming helps ensure that siting, environmental, and other policies are developed collaboratively to facilitate the responsible exploration and development of wind and other renewable energy resources on the public lands of Wyoming. In addition, BLM works to ensure that development is conducted in a consistent, environmentally sustainable, and transparent manner and supports the responsible

development of Renewable Energy by working in concert with all BLM offices, other federal agencies, tribal, state, and local governments in Wyoming.

BLM Wyoming is organized into three District Offices and 10 Field Offices. The High Desert District has the following field offices: Kemmerer, Pinedale, Rawlins, and Rock Springs. The High Plains District has the following field offices: Buffalo, Casper, and New Castle. The Wind River/Bighorn Basin District has the following Field offices: Cody, Lander, and Worland.



Each field office has a Resource Management Plan (RMP). BLM's RMPs form the basis for every action and approved use on the public lands. Plans are periodically revised as changing conditions and resource demands require. RMPs generally establish the following:

- Land areas for limited, restricted or exclusive use; designations, such as Area of Critical Environmental Concern (ACEC); and transfers from BLM administration;
- 2. Allowable resource uses and related levels of production or use to be maintained;
- 3. Resource condition goals and objectives to be attained;
- 4. Program constraints and general management practices needed to achieve the above items;
- 5. Need for an area to be covered by more detailed and specific plans;
- 6. Support actions, including such measures as resource protection, access development, realty action, cadastral survey, etc. as necessary to achieve the above;

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Page 4-26 January 2022

- 7. General implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action; and
- 8. Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

A project proponent should contact the BLM field or district offices to establish whether there are any Special Management Areas in the project area. There are several different types of Special Management Areas including ACECs and Wilderness Study Areas (WSAs).

ACECs are special management areas designated by BLM to protect significant historic, cultural, or scenic values; fish and wildlife resources; natural process or systems; and/or natural hazards that:

- Have more than locally significant qualities which give it special worth, consequence, meaning, distinctiveness, or cause for concern, especially compared to any similar resource;
- Have qualities or circumstances that make it fragile, sensitive, rare, irreplaceable, exemplary, unique, endangered, threatened, or vulnerable to adverse change;
- Has been recognized as warranting protection to satisfy national priority concerns or to carry out the mandates of the Federal Land Policy and Management Act;
- Has qualities that warrant highlighting to satisfy public or management concerns about safety and public welfare; and/or
- Poses a significant threat to human life and safety or to property.

ACECs differ from other special designations, such as WSAs, in that designation by itself does not automatically prohibit or restrict other uses in the area. While WSAs are managed to a "non-impairment" standard that excludes surface-disturbing activities and permanent structures that would diminish the areas' natural character, the management of ACECs is focused on the resource or natural hazard of concern. The resource or hazard varies considerably from area to area, and in some cases may involve surface-disturbing actions.

BLM Wyoming manages 43 WSAs encompassing 577,504 acres of public land. In its report to Congress in 1991, BLM Wyoming recommended that 240,364 acres within 21 study areas should be designated as part of the National Wilderness Preservation System. Also, in the 1992 report, BLM Wyoming recommended that 337,140 acres within 30 study areas should be released for uses other than wilderness. The Wilderness Act prohibits construction of telecommunication towers, facilities for power generation, transmission lines, and energy pipelines. **Table 4-5** lists the BLM-managed WSAs within Wyoming.

Table 4-5. BLM-Managed Wilderness Study Areas

High Desert District (20)	High Plains District (3)	Wind River/Bighorn Basin District (20)
Adobe Town	Fortification Creek	Alkali Creek
Alkali Basin/East Sand Dunes	Gardner Mountain	Bobcat Draw Badlands
Alkali Draw	North Fork	Bighorn Tack-On
Bennett Mountain		Cedar Mountain
Buffalo Hump		Copper Mountain
Devil's Playground		Dubois Badlands
Encampment River Canyon		Honeycombs
Ferris Mountain		Lankin Dome
Honeycomb Buttes		McCullough Peaks
Lake Mountain		Medicine Lodge
Oregon Buttes		Miller Spring
Prospect Mountain		Owl Creek

High Desert District (20)	High Plains District (3)	Wind River/Bighorn Basin District (20)
Raymond Mountain		Pryor Mountain
Red Creek Badlands		Red Butte
Red Lake		Savage Peak
Sand Dunes		Sheep Mountain
Scab Creek		Split Rock
South Pinnacles		Sweetwater Canyon
Twin Buttes		Trapper Creek
Whitehorse Creek		Whiskey Mountain

Other Special Management Areas include the 3,100-mile-long Continental Divide National Scenic Trail which runs from Canada to Mexico through the states of Montana, Idaho, Wyoming, Colorado, and New Mexico. Crossing the spine of the North American continent numerous times, it traverses some of America's most spectacular and isolated scenery, offering views unlike any other trail in the world. In Wyoming, the trail passes through Yellowstone National Park; the Bridger/Teton, Shoshone, and Medicine Bow-Routt National Forests; and public lands managed by the BLM.

Allowable uses of the BLM portion of the Continental Divide National Scenic Trail include hiking, mountain biking, horseback riding, and limited motor vehicle use. The BLM portion of the trail is 95 percent primitive two-track roads, 4 percent is improved roads, and 1 percent requires cross-country travel. Cross-country segments are closed to motorized vehicles.

Contact Information:

High Desert District 280 Highway 191 North Rock Springs, WY 82901-3447 (307) 352-0256

High Plains District 2987 Prospector Drive Casper, WY 82604-2968

(307) 261-7600

Wind River/Bighorn Basin District

101 South 23rd Street Worland, WY 82401 (307) 347-5100

Wyoming BLM, State Office 5353 Yellowstone Road Cheyenne, WY 82009 (307) 775-6129

4.11.3 U.S. Bureau of Reclamation

Table 4-6 lists the reservoirs, lakes, and lands within the study area associated with BOR based on land ownership, land management, or water (dam) management.

Table 4-6. Bureau of Reclamation Jurisdictions

Managed Area	Recreation Management Entity
Alcova Reservoir	Natrona County Roads, Bridges, and Parks Department
Bighorn Canyon	National Park Service
Boysen Reservoir	Boysen State Park
Buffalo Bill Reservoir	Buffalo Bill State Park
Deaver Reservoir	Bureau of Reclamation
Flaming Gorge	U.S. Forest Service
Fremont Canyon Recreation Area	Bureau of Reclamation
Glendo Reservoir	Glendo State Park
Gray Reef Reservoir	Natrona County Roads, Bridges, and Parks Department
Guernsey Reservoir	Wyoming State Parks and Historic Sites



Page 4-28 January 2022

Managed Area	Recreation Management Entity								
Keyhole Reservoir	Wyoming State Parks and Historic Sites								
Kortes Reservoir / Miracle Mile Area	Bureau of Reclamation								
Lake Cameahwait (Bass Lake)	Wyoming Game and Fish Department								
Newton Lakes	Wyoming Game and Fish Department								
Ocean Lake	Wyoming Game and Fish Department								
Pathfinder Reservoir	Bureau of Land Management and Natrona County Roads, Bridges, and Parks Dept.								
Pilot Butte Reservoir	Bureau of Reclamation								
Ralston Reservoir	Wyoming Game and Fish Department								
Seminoe Reservoir	Wyoming State Parks and Historic Sites								

SUPs would be required from BOR if any portions of wind energy development projects were to be located on lands within BOR jurisdiction. The issuance of permits may also trigger additional NEPA requirements for all or portions of wind energy development projects located on BOR-managed lands.

Acquisition of use authorization requires submittal of Form SF-299, Application for Transportation and Utility Systems and Facilities on Federal Lands. All plans, specifications, maps, and drawings as required under the application should be included with the application. The permit application fee of \$100 is due when the application is submitted. There may be an associated administration fee and a use fee that will be determined by the BOR during the agencies' review of the application. The typical processing timeframe is 60 to 90 days from the time that the application is deemed complete.

Contact Information:

Wyoming Area Office 705 Pendell Blvd. Mills, WY 82644 (307) 261-5671

4.11.4 U.S. National Park Service

Within Wyoming, NPS manages the National Parks, Monuments, Recreation Areas, and Historic Sites listed in **Table 4-7**. All units of the National Park System are managed under the National Park Service Organic Act of 1916 (54 U.S. C. § 100101 *et seq.*) and related regulations.

NPS is responsible for trail-wide administration of the four National Historic Trails (NHTs) named in the table and has overall authority for managing the National Historic Landmarks and the National Natural Landmarks programs. Direct oversight is vested with the landowner or respective land management agency, but NPS has responsibility for broad programmatic oversite of those NHTs and the landmarks programs. There are 23 National Historic Landmarks and six National Natural landmarks in Wyoming.

Table 4-7. National Park Service Sites in Wyoming

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Service	Site							
National Parks	Yellowstone National Park							
	Grand Teton National Park							
National Monuments	Fossil Butte National Monument							
	Devils Tower National Monument							
National Recreation Area	Bighorn Canyon National Recreation Area							
National Historic Sites	Fort Laramie National Historic Site							
National Historic Trails	Oregon National Historic Trail							
	Mormon Pioneer National Historic Trail							

January 2022 Page 4-29

Service	Site
	California National Historic Trail
	Pony Express National Historic Trail

Wind energy facilities are not considered an allowed action on lands under the jurisdiction of the NPS. The Organic Act creating the NPS states that NPS will "...conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations" (54 U.S.C. § 100101 et seq.). Management and administration of NHTs is also governed by the National Trails System Act (16 U.S.C. § 1241 et seq.) and related interagency agreements for each trail, and crossing the designated trail corridor may require permits or consultation.

Utility-scale wind development on public or private lands adjacent to parks can result in adverse cross-boundary impacts to many types of resources and values protected by NPS, such as wildlife population impacts from development in wildlife corridors, air quality impacts from fugitive dust, water quality impacts from development in adjacent watersheds, water quantity impacts from water withdrawals, dark night skies impacts from facility lighting, impacts to historic setting and place, and impacts to scenic views that extend beyond park boundaries and that are important to the experience of park visitors.

If NEPA is required for a proposed wind energy project that occurs adjacent to lands under the jurisdiction of the NPS, the agency may become involved as a cooperating or participating

NPS may also be a consulting party under Section 106 of NHPA would not typically be the lead agency responsible for meeting compliance requirements under NEPA or Section 106 of NHPA for a wind energy project or the related transmission infrastructure.

agency as appropriate. NPS may assist in providing special expertise regarding potentially affected resources and determining the appropriate level of compliance.

It is important to consider the proximity of units of the National Park System and other special status areas under NPS administration in the potential routing of electric transmission lines, gentie lines, the location of substations, and any necessary upgrades to existing systems. Additionally, federal law gives NPS authority to grant SUPs such as ROW permits for electric poles and lines for transmission and distribution across land managed by the NPS. The NPS will issue a ROW permit only when there is no practicable alternative to crossing NPS-managed land. Further, according to Director's Order 53, the NPS will not issue special park uses permits that would do any of the following:

- Cause unacceptable impacts to park resources or values;
- Be contrary to park purposes or would unreasonably impair the atmosphere of peace and tranquility maintained in wilderness, natural, historic, or commemorative locations within the park;
- Unreasonably interfere with interpretive, visitor service, or other program activities, or NPS administrative activities;
- Substantially impair the operation of public facilities or the services of NPS concessioners or contractors;
- Present a clear and present danger to public health and safety; or
- Result in conflict with other existing uses.



Page 4-30 January 2022

Contact Information:

Regional Director National Park Service 12795 Alameda Parkway Denver, CO 80225 (303) 969-2500

4.12 U.S. Federal Aviation Administration

The FAA is responsible for ensuring the safety of the navigable airspace. To meet this objective, the FAA conducts aeronautical studies of proposed activities that could impact airspace. In compliance with Objects Affecting Navigable Airspace (14 CFR 77), any structures (including wind turbines and associated transmission structures) associated with wind energy projects that may affect navigable airspace (generally any structure more than 200 feet tall and other shorter structures within 20,000 feet of most airports) must file notice with the FAA as described below¹.

Once the specific locations of wind energy project facilities, including wind turbines and any associated transmission structures, that might affect navigable airspace are known, Form 7460-1 (Notice of Proposed Construction or Alteration) would be filed with the FAA. Form 7460-1 may be submitted electronically via the FAA Obstruction Evaluation/Airport Airspace Analysis website or by U.S. mail. No fee is required to submit Form 7460-1 or to have the FAA review the submittal. The required notice must be submitted at least 30 days before the earlier of the following dates: the date the proposed construction or alteration is to begin or the date an application for a construction permit is to be filed. Given the extensive studies that wind turbines require, the FAA recommends that notices be filed with the FAA approximately 8 to 12 months prior to the planned construction date. The FAA will review the structures in relation to airport operations, flight paths, radar, and other factors, and will consult with other agencies including the Department of Defense. A lighting plan may be submitted along with Form 7460-1, and must follow the guidance in FAA AC 70-7460-1K, Paragraph 134 (Lighting Standards); however, any submitted plan may or may not be considered because the FAA specialist will determine the lighting scheme for the proposed wind facility.

Obtaining approval from local airport managers and/or air traffic control tower managers does not waive the requirement to submit the notice to the FAA if the structure exceeds the notice criteria of 14 CFR Part 77. An applicant must receive a Determination of No Hazard to Air Navigation from the FAA that meets all conditions identified in the determination prior to beginning construction.

A supplemental Notice of Actual Construction or Alteration (FAA Form 7460-2) must also be filed with the FAA at least 10 days prior to the start of construction or within 5 days after the construction reaches its greatest height.

Contact Information:

Northwest Mountain Region, Denver Airports District Office (Colorado, Utah, Wyoming) U.S. Department of Transportation, Federal Aviation Administration Denver Airports District Office

¹ Microwave communications towers are sometimes utilized in electric transmission systems for communications. If microwave communications facilities are included in a given electric transmission line for a wind energy project, then the applicant would be required to include them in the FAA 7460-1 Application.



26805 E. 68th Avenue, Suite 224 Denver, CO 80249-6361 (303) 342-1261

4.13 U.S. Federal Communications Commission

Although wind turbines do not radiate radio frequency energy, they may have the potential to create issues with microwave beam communications that are caused by emergency response agencies, the U.S. Department of Transportation, and AM radio signals. Turbine components may partially or completely block these signals, interfering with communication abilities.

Transmission lines and substations that may be associated with a wind development project rarely cause interference with radio and television under normal operating circumstances. Transmission lines and substations may interfere with microwave communication signals if the transmission structure is constructed in the line of sight between the transmitter and receiver sites. Effects on microwave communications facilities in proximity to a transmission line or substation could be mitigated by locating structures outside the line of sight between the transmitter and receivers.

Consumers or businesses may report potential interference to the Federal Communications Commission (FCC). If harmful interference is identified, federal law requires the operator of that facility to cease operations upon notification by the FCC that the device is causing harmful interference, until such time that the harmful interference has been corrected (47 CFR § 15.5). Renewable energy companies have been able to work well under the current FCC rule because harmful interference can generally be eliminated.

While there was no formal permit process or consultation required by the FCC that could be identified, an applicant would analyze the most current FCC data available to identify the exact locations of licensed microwave towers and any other sensitive communications facilities. The data would be utilized during the siting process to avoid line-of-sight obstruction by strategic placement of transmission lines and/or substations.

Contact Information:

Federal Communications Commission 445 12th Street Southwest Washington, DC 20554 (888) 225-5322



Page 4-32 January 2022

5 Additional Sources of Information for Wind Energy Development

Wind energy production has increased over the past decade as the United States shifts to renewable energy production to supplant the need for carbon-based fuel. There are several sources of information available to assist those involved with the wind energy development process, including developers, regulatory agencies, and landowners. In addition to the information provided in Sections 2 through 4, additional sources of information are provided below.

5.1 American Clean Power Association (Previously American Wind Energy Association)

The Wind Energy Siting Handbook was developed to assist developers in addressing regulatory and environmental issues associated with the siting and development of land-based wind energy projects in the United States. The handbook is intended to be used as a guidance document in conjunction with other available resources and consultations with agencies and regulators. This document is available on the American Wind Energy Association website: http://www.awea.org/sitinghandbook/. A recent review of metrics and methods for studying wind energy and wildlife entitled Comprehensive Guide to Studying Wind Energy/Wildlife Interactions was recently published by the National Wind Coordinating Collaborative. This document, along with others from National Wind Coordinating Collaborative, are available at the following website: http://www.nationalwind.org/publications/wildlifewind.aspx.

5.2 Bureau of Land Management

The BLM *Wind Energy Program* website contains numerous links to resources that are intended to assist developers with siting and development of their wind energy projects. Visit https://www.blm.gov/programs/energy-and-minerals/renewable-energy/wind-energy and https://windeis.anl.gov/ for additional information.

Since the 2005 Wind PEIS land use plan revisions and amendments have changed the boundaries of the excluded lands and as a result, maps of wind energy development exclusions prepared as part the Wind PEIS are no longer accurate. The West-wide Wind Mapping Project is an online mapping tool that allows users to overlay wind energy potential on BLM-administered lands with other natural, social, and cultural resource data. BLM staff and stakeholders can use the tool to identify areas with high wind energy potential and low resource conflict that may be appropriate for wind energy development. The project has mapped the following areas:

- BLM-administered lands where wind energy development is excluded by law, BLM policy, or existing land use plan decisions;
- BLM-administered lands with potentially developable wind resources where environmental concerns or land use restrictions result in more extensive siting considerations for proposed wind energy projects; and
- Other BLM-administered lands with potentially developable wind resources.

January 2022 Page 5-1

Regional and state wind energy development exclusions and resource sensitivities maps and associated geospatial data developed as part of the West-Wide Wind Mapping Project are available on the Maps and Data page: https://wwmp.anl.gov/maps-data/.

Instruction Memorandum No. 2021-026 (Use of Competitive Processes for Solar and Wind Energy Development outside of Designated Leasing Areas) was issued by the BLM to guidance as to when the BLM may or may not use competitive processes to offer public land for solar and wind energy development outside of designated leasing areas. Outside these areas, the BLM typically issues ROW grants for solar and wind energy development through a non-competitive process as described in 43 CFR 2804. However, the BLM may offer, through a competitive process, any land outside a designated leasing area which is open to solar and/or wind ROW applications under the approved land use plan (43 CFR 2804.30(a)). Additional information can be found at the following website: https://www.blm.gov/policy/im-2021-026.

5.3 Wyoming Game and Fish Department

WGFD provides various resources for development planning on their website: https://wgfd.wyo.gov/Habitat/Habitat-Protection-Program/Resources-for-Development-Planning. Questions regarding these resources should be directed to the Habitat Protection Program at (307) 777-4506 or wgfd.hpp@wyo.gov. These resources can be obtained at the following websites:

- Wyoming Game and Fish Department Guidelines for Wind and Solar Energy Development
- The Governor's Wind Conflict Map
- WGFC Position on Sage-grouse Core Areas and Wind Farm Siting
- WGFC Resolution on Public Access in Wind Farm Developments

5.4 Natural Resources and Energy Explorer Tool

NREX is a web-based GIS software designed to help users understand the energy, environmental, cultural, socioeconomic, and infrastructural assets of a location during the preplanning stages of development. Additionally, NREX's GIS data layers can assist developers with site-specific information for their project. The NREX website is available at the following link: https://nrex.wyo.gov/.

5.5 University of Wyoming, School of Energy Resources—Cooperative Extension Service

The University of Wyoming published a guide, the Commercial Wind Energy Development in Wyoming: A Guide for Landowners Second Edition (June 2011), that outlines the process of wind energy development for landowners and highlights some of the key issues that they may face during the wind energy development process. In addition, the guide provides important updates on the growing practice of landowner wind energy associations and current state legislation. A copy of the document can be obtained at the following website:

https://wyomingrenewables.org/renewable-technologies/wind/large-scale-wind-energy/.



Page 5-2 January 2022

5.6 U.S. EPA Guide to Siting Renewable Energy Projects

The EPA's Office of Solid Waste and Emergency Response's Center for Program Analysis published the Handbook on Siting Renewable Energy Projects While Addressing Environmental Issues in 2015. This handbook is intended for EPA; federal, local, and state cleanup project managers; communities, property owners, and developers; and others with an interest in reusing potentially contaminated sites for renewable energy production. It provides tools to help interested parties determine the overall feasibility of siting renewable energy production and includes key considerations for integrating renewable energy development during all phases of typical cleanup processes (e.g., during the environmental assessment, cleanup plan, or cleanup implementation) in the EPA Superfund, Brownfields, and Resource Conservation and Recovery Act Corrective Action programs. A copy of the handbook is available online at the following link: https://www.epa.gov/sites/default/files/2015-04/documents/handbook siting repowering projects.pdf.

5.7 Guide to Permitting Electric Transmission Lines in Wyoming

This guide was a collaborative effort between various agencies to provide information to the Wyoming Renewable Energy Coordination Committee for use in their participation with the Rapid Response Team for Transmission review of the transmission routing and permitting processes that are required in Wyoming. The guide identifies the various permitting processes required to route and construct new electric transmission lines in Wyoming. A copy of the guide is available online at the following link: https://www.wyoenergy.org/wp-content/uploads/2020/10/2012-Guide-Permitting-Electric-Transmission-Lines-Wyoming.pdf.

January 2022 Page 5-3

6 References

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January 2022 Page 6-1

7 Schedule of Permitting/Consultation Sequence

January 2022 Page 7-1

SCHEDULE OF PERMITTING/CONSULTATION SEQUENCE



		YEAR 1			1	YF#	NR 2		YEAR 3			YEAR 4				YEAR 5				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
SITE SELECTION																				
Review of Wind Resources and Transmission Capacity Analysis																				
Site Suitability Assessment/Critical Issues Analysis																				_
Initial Site Visit/Data Collection																				-
Preliminary Engineering/Conceptual Layout Public Agency Coordination	-												<u> </u>							-
Environmental Surveys	1																			+
Site Boundary/Facility Refinement																				+
Phase I Environmental Site Assessment																				
STATE PERMITTING													i							
Wyoming PSC													i							
Certification ^{1/} of Public Convenience and Necessity (CPCN)																				
Prepare CPCN	ļ																			
Right-of-way approval	1																			
Public notice	<u> </u>																			-
Public hearing	-												-							-
WDEQ, Industrial Siting Division Wyoming Industrial Siting Act Permit Application (Sec. 109)	1																			
Preliminary Discussion																				+
Pre-application meeting and application development and submittal	1																			
Application including pre-hearing and hearing	i																			
Wyoming Industrial Siting Act Permit Application (Sec. 107)	i																			
Preliminary Discussion																				
Pre-application meeting and application development and submittal																				
Application including pre-hearing and hearing																				
WDEQ, Water Quality Division	1																<u> </u>			
Section 401 Water Quality Certification	-																			
WYPDES, Large Construction Permit and SWPPP	-																			
WDEQ, Air Quality Division Concrete Batch Plant General Emissions Standards	+				-								-				-			
Wyoming State Engineer (WSEO)	1																			
Water Usage Permits	1																			
Wyoming OSLI	†																			
Special use and temporary use permit for crossing state-owned lands	1				İ															
WYDOT	Ī																			
Utility Permit																				
Oversize/Overweight Permits																				
WGFD																				
Consultation to identify fish and wildlife species of concern																				_
Wildlife monitoring or studies	-												<u> </u>							_
Special Use Permit for Wildlife Habitat Management Area Wyoming SHPO	-				<u> </u>															-
Determination of Compliance with state and national historic	-																			-
properties under the National Historic Preservation Act Section 106																				
WYSPCR																				1
Consultation and permission from the agency director	i																			
LOCAL PERMITTING																				
County Land Use Permit																				
Prepare/File Application with BOCC																				
Completeness Review	ļ																			
Public Hearings																				
Board Decision	-																			
Other Permits																				4
FEDERAL PERMITTING - NEPA																				
National Environmental Policy Act (NEPA)	+				_								_							-
EIS Pre-NEPA Coordination	+																			-
Notice of Intent through Record of Decision	+																			+
EA	1																			+
Clean Water Act CWA	1																			+
Section 401 - Water Quality Certification	1																			
Section 402 - National Pollutant Discharge Elimination System																				
Section 404 - Discharge to and Fill in Waters of the United States																				
National Historic Preservation Act	1																			
Section 106	1				<u> </u>															
United States Fish and Wildlife Service (USFWS)	-																			-
Endangered Species Act (ESA) Section 7 Consultation Endangered Species Act (ESA) Section 10 Incidental Take Permit	-																			-
Endangered Species Act (ESA) Section 10 Incidental Take Permit National Wildlife Refuges (NWR) - ROW authorization for crossing and	1																			+
Special Use Permit (SF299)																				
Federal Highway Administration (FHWA)	1																			
Utility Crossing Permit	i				İ															
Overweight Permits	İ																			
US Department of Agriculture																				
USFS Special Use Permit - SF299																				
Rural Utilities Service Borrower's Request for Funding	1				<u> </u>															
Natural Resources Conservation Service (NRCS)	-				<u> </u>															
Farmland Protection Policy Act (if federally funded)	1																			
Department of Defense (DOD) Airspace Consultation /POW Pequest / Permits	1																			-
Airspace Consultation/ROW Request/Permits US Department of Interior	-																			+
	1																			+
Bureau of Indian Affairs Bureau of Land Management (BLM) - ROW/Special Use Permit	1																			+
Bureau of Reclamation (BOR) - ROW grant application	1																			
National Park Service (NPS) - ROW application	1																			+
Federal Aviation Administration (FAA)	1				i															+
	1																			<u> </u>
Form 7460-1	1				ı															
Form 7460-1 1/ Public utilities, regulated by the Wyoming Public Service Commission, may require a Certificate of Public Convenience and Necessity. Timing of this approval varies from project to project. Consult with	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q ²

8 Permitting Flow Chart

Page 8-1

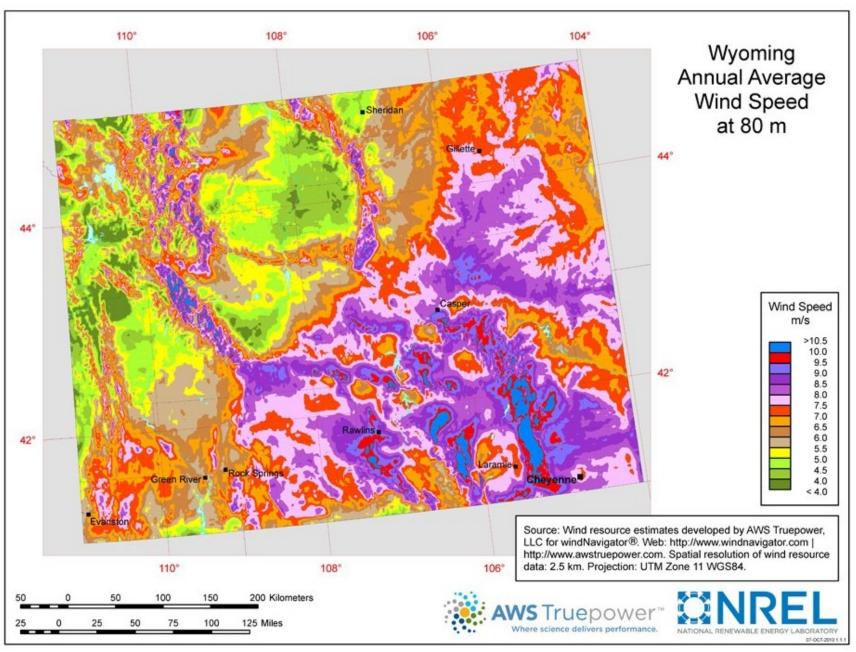
Note: Only if wind energy facility is on lands managed by one of the agencies.



---- = Firm process
relationship

----- = Casual informational

Appendix A: Maps



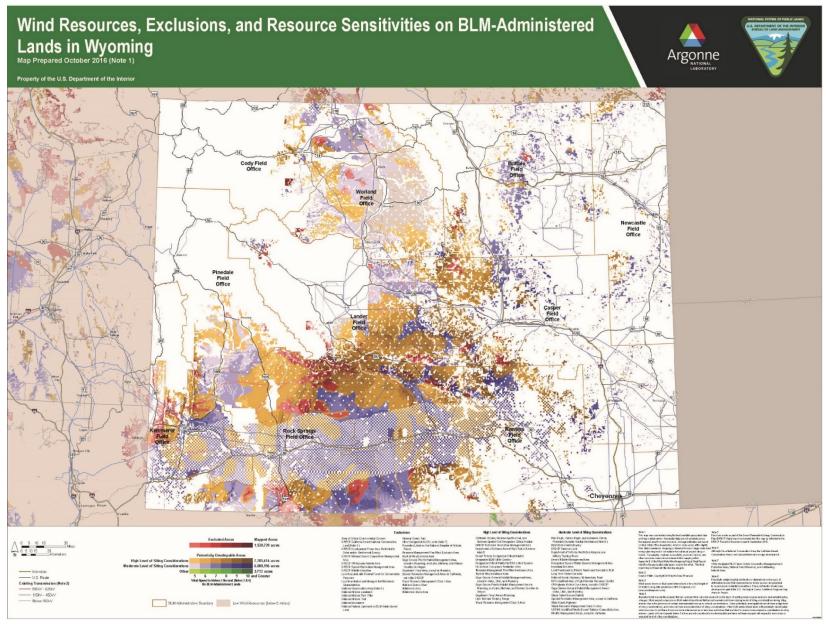
Map 1 – Wyoming Annual Average Wind Speed at 80 Meters

January 2022 A-1



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A-2 January 2022



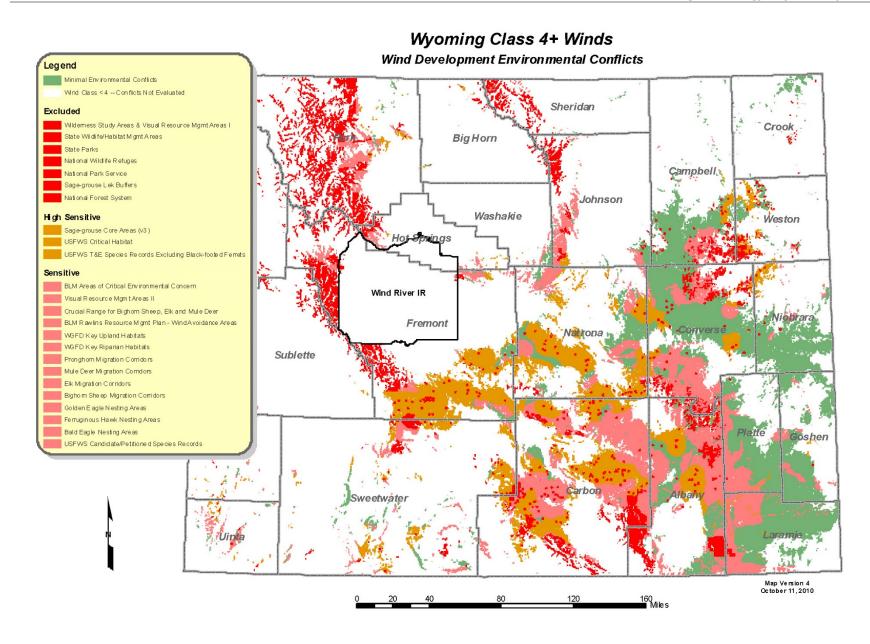
Map 2 - Wind Resources, Exclusions, and Resource Sensitivities on BLM-Administered Lands in Wyoming

January 2022 A-3



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A-4 January 2022



Map 3 – Wyoming Class 4+ Winds Wind Development Environmental Conflicts

January 2022 A-5



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A-6 January 2022





