

CONVERSE COUNTY, WYOMING



WIND ENERGY SITING REGULATIONS

RESOLUTION No: 10-10
Converse County Board of Commissioners

A RESOLUTION ADOPTING
CONVERSE COUNTY WIND ENERGY SITING REGULATIONS

WHEREAS, pursuant to Wyoming Statutes §18-5-501 through §18-5-513, the Converse County Commissioners have promulgated the Converse County Wind Energy Siting Regulations for all lands located outside the corporate limits of municipalities in Converse County; and

WHEREAS, the adoption of Wind Energy Siting Regulations shall promote public health, safety, convenience and general welfare within Converse County, and

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, Converse County, Wyoming, that the Converse County Wind Energy Siting Regulations be approved and adopted.

PASSED, APPROVED AND ADOPTED THIS 15th day of November 2010.

BOARD OF CONVERSE COUNTY
COMMISSIONERS

/s/ Ed Werner
Ed Werner, Chairman Aye – Nay

/s/ Mike Colling
Mike Colling, Vice-Chairman Aye – Nay

/s/ Dave Edwards
Dave Edwards, Member Aye – Nay

/s/ Tony Lehner
Tony Lehner, Member Aye – Nay

/s/ James H. Willox
James H. Willox, Member Aye – Nay

ATTEST: Lucile K. Taylor 
Lucile K. Taylor, Converse County Clerk

**APPLICATION FOR WIND ENERGY
CONVERSION SYSTEM (WECS) USE PERMIT**

(PURSUANT TO W.S. 18-5-501 THROUGH 18-5-513)

FOR FACILITIES WITH GROSS GENERATION OF 0.5 MEGAWATTS OR GREATER

(FOR OFFICE USE ONLY)

CASE NAME/NO. _____
DATE RECEIVED: _____ FEE/AMOUNT PAID: _____
PLANNING COMM. DATE: _____ RECOMMENDATION BY PLANNING COMM.: _____
COUNTY COMM. DATE: _____ TIME: _____ DECISION BY CO. COMM.: *APPROVED DENIED*
CHAIRMAN: _____ DATE SIGNED: _____

NOTE: Each addition or phase of a project must receive separate approval and a separate application for each addition or phase must be submitted for consideration.

1. Name of Applicant: _____
Phone #: _____ Fax #: _____
Mailing Address: _____
Email: _____
Relationship of Applicant to Property: _____
(*Owner, Tenant, Lessee, Other*)
2. A description of the Applicant, Owner and Operator, including their respective business structures

Name of Authorized Agent: _____ Phone #: _____
Email: _____ Fax: _____
3. Legal Description of the location the proposed WECS Project (please use additional sheets if necessary)

4. The following items shall be submitted as a project summary with all WECS Project applications.
 - a. Certification that demonstrates reasonable efforts have been undertaken by the applicant to provide notice, in writing, to all owners of land within one (1) mile of the proposed WECS Project, and to all cities and towns located within twenty (20) miles of the WECS Project. Notice shall include a general description of the project including its location, anticipated dates for commencement of construction and operations, projected number of turbines and the likely routes of ingress and egress.

Additionally the following shall be submitted:

- i. The name(s), address(es), phone number(s) and email(s) of the Applicant(s), Owner(s) and Operator(s), and all participating property owner(s) owning land included in the project;
 - ii. The name(s), address(es), and phone number(s) of all non-participating adjacent property owner(s) within one (1) mile of the WECS project site;
- b. Certification that notice of the proposed wind energy facility will be published in a newspaper of general circulation in Converse County at least twenty (20) days prior to the public hearing required by W.S. 18-5-506. The notice shall include a brief summary of the wind energy facility, invite the public to submit comments and identify the time and date of the hearing.
 - c. Certification that the proposed wind energy facility will comply with all the standards required by W.S. 18-5-504.
 - d. Certification that the proposed wind energy facility will comply with all the applicable zoning and county land use regulations, which regulations shall be no less stringent than the standards required by these regulations.
 - e. Certification that a written emergency management plan has been submitted for review and comment to the Converse County Fire Warden, the Converse County Emergency Management Coordinator and the Converse County Sheriff.

This plan should include information regarding whether there is a high likelihood for communication interference with local emergency services or local broadcast of residential television, including possible measures for mitigation of potential communication issues if there is a high likelihood for such communication services to be adversely affected.

If the permit is granted, the plan shall be supplemented and revised following construction of the facility and prior to its operation if there are any variations in the facility's construction which would materially impact the original emergency management plan.

- f. Provide a waste management plan that includes an inventory of estimated solid wastes, and a proposed disposal program for the following:
 - i. The construction and operation of the proposed wind energy facility.
 - ii. The eventual decommissioning of the proposed wind energy facility.

- g. Provide evidence sufficient for the Converse County Commissioners to determine if the proposed wind energy facility has adequate legal access for the following:
 - i. Roads
 - ii. Transmission lines
 - iii. Any other ingress or egress
- h. The application also shall describe how private roadways within the facility will be marked as private roadways and shall acknowledge that Converse County will not accept any dedication of the private roadways to the public use, nor is Converse County responsible for any repairs or maintenance of the private roadways. The application also shall include a traffic study of any public roadways leading to and away from the proposed facility and the Converse County Commissioners shall require the applicant to enter into a reasonable road use agreement for the use of County roads prior to construction of the facility;
- i. Provide a project plan indicating the proposed roadways, tower locations, substation locations, transmission, collector and gathering lines and other ancillary facility components. If the application is granted, the Converse County Board of Commissioners shall require that the project plan be revised to show the final location of all facilities. The project plan should include the following:
 - A site plan for the installation of a WECS Project showing the planned location of each WECS tower, primary structure(s), property lines (including identification of adjoining properties), setback lines, public & private access roads and turnout locations, substation(s), electrical cabling from the WECS tower to the substation(s), ancillary equipment, transmission lines, and layout of all significant structures within the geographical boundaries of any applicable setback
 - A general description of the project, including its approximate total name plate generating capacity; the potential equipment manufacturer(s) and type(s) of WECS(s), number of WECS, and name plate generating capacity of each WECS; the maximum height of the WECS tower(s) and maximum diameter of the WECS rotor(s);If this permit is granted, it will be for the equipment described within this permit.
- j. Certification that there shall be no advertising or promotional lettering on any tower, turbine, nacelle or blade beyond the manufacturer's or the applicant's logo on the nacelle of the turbine;

- k. Provide a site and facility reclamation and decommissioning plan which indicates the planned life of the wind energy facility and the means by which the facility and its site will be decommissioned and reclaimed at the end of the facility's life and which certifies that any owner of land within the wind energy facility and its site who is not the applicant has been consulted in development of the reclamation and decommissioning plan. Such plan shall comply with all requirements adopted by the Industrial Siting Council under W.S. 35-12-105 (d). If the permit is granted, the plan shall be updated every five (5) years until site reclamation and decommissioning is complete;
- l. For wind energy facilities not meeting the definition of a facility as defined in W.S. 35-12-102 (a)(vii), provide a detailed summary of any significant adverse environmental, social or economic effects that the proposed wind energy facility may have together with any preliminary plans developed to alleviate any of the adverse effects.
- m. A wind energy facility subject to these regulations shall meet the requirements adopted pursuant to W.S. 35-12-105 (d) and (e) regardless of whether the facility is referred to the Industrial Siting Council pursuant to W.S. 18-5-509 or is otherwise subject to the Industrial Siting Act.

Minimum Standards. (W.S. 18-5-504)

NOTE: For all references to tower height, the height shall be measured from the base of the tower to the tip of the blades at the highest height.

1. Certify that the base of any tower is located at a distance of no less than one hundred ten percent (110%) of the maximum height of the tower from any property line contiguous or adjacent to the facility, unless waived in writing by the owner of every property which would be located closer than this minimum distance. If waivers are obtained, supply copies of these waivers.
2. Certify that the base of any tower is located at a distance of no less than one hundred ten percent (110%) of the maximum height of the tower from any public road right-of-way. Provide this information on your site plan.
3. Certify that the construction of any tower or other structure, other than underground structures, transmission lines, roadways and structures appurtenant to roadways, at a distance of no less than five and one-half (5.5) times the maximum height of the tower, but in no event no less than one thousand (1,000) feet from any platted subdivision unless this restriction is waived in writing by the owners of all land included within the distance specified in this paragraph. If waivers are obtained, supply copies of these waivers.

4. Certify that the base of any tower is located at a distance of no less than ten (10) times the maximum height of the tower, but in no event less than one thousand (1,000) feet from a permanent residential dwelling or occupied structure, unless waived in writing by the person holding title to the residential dwelling or occupied structure. If waivers are obtained, supply copies of these waivers. In no case shall the distance from the base of any tower be located less than 110% of the maximum height of the tower from a residential dwelling or occupied structure.
5. Certify that the base of any tower is located at a distance of no less than ten (10) times the maximum height of the tower from the limits of any city or town.
6. Certification that notice as required by Wyoming Department of Environmental Quality, Rules and Regulations of the Industrial Siting Council, Chapter 1, Section 9 (e) has been provided to the record owners and claimants of mineral rights located on and under lands where the wind energy facility will be constructed.
7. It is understood that apparatus and construction changes may be implemented after the WECS Use Permit is issued. The Applicant shall notify Converse County of any changes to the information provided in the application summary that occur while any approval of the WECS Use Permit application is pending. Notification of any changes to the information provided in the application during or post-construction must be provided to the County for review and approval by the Board of County Commissioners. For purposes of this section, a “change” is defined as any alteration to the scope, purpose, size, or scheduling of the project which would result in different impacts not within the scope of the permit as issued. Within six months of commissioning of any permitted project, the applicant shall submit to the Converse County Board of Commissioners a revised project plan showing the final location of all facilities, including the GPS locations for all towers.

Procedure for Processing

1. The permit application and corresponding fees must be received in the Converse County Special Projects Office.
2. The applicant shall submit twelve paper copies of the permit application as well as one (1) file of the permit in PDF format.
3. The Converse County Special Projects Office will forward the permit application to the Converse County Planning & Zoning Board members.
4. The Converse County Planning & Zoning Board will meet to review the completeness of the submitted permit application.
5. If the permit is determined to be incomplete, the Converse County Planning & Zoning Board will outline the additional information which is required.
6. The Converse County Planning & Zoning Board will forward the permit application to the Converse County Board of Commissioners with a recommendation of approval or a recommendation of denial.

Complete applications; notice. (18-5-505)

Upon receipt of an application, the Converse County Board of Commissioners shall conduct a review of the application to determine if it contains all the information required by W.S. 18-5-503 and any applicable rules and regulations. If the Converse County Board of Commissioners determines that the application is incomplete, it shall within thirty (30) days of receipt of the application notify the applicant of the specific deficiencies in the application. The applicant shall provide the additional information necessary within thirty (30) days of receipt of a request for additional information from the Converse County Board of Commissioners. When the Converse County Board of Commissioners determines that the application is complete it shall notify the applicant that the application is complete and shall provide notice of the date and time at which the hearing required by W.S. 18-5-506 will be conducted.

Hearing and public comment. (18-5-506)

The Converse County Board of Commissioners shall hold a public hearing to consider public comment on the application to permit a wind energy facility no less than forty-five (45) days and not more than sixty (60) days after determining that the application is complete. Written comment on the application shall be accepted by the Converse County Board of Commissioners for not less than forty-five (45) days after determining that the application is complete.

Decision of the Board of Commissioners; findings necessary. (18-5-507)

1. Within forty-five (45) days from the date of completion of the hearing required by W.S. 18-5-506, the Converse County Board of Commissioners shall make complete findings, issue an opinion, render a decision upon the record either granting or denying the application and state whether or not the applicant has met the standards required by these regulations. The decision shall be subject to the remedies provided in W.S. 18-5-508. The Converse County Board of Commissioners shall grant a permit if it determines that the proposed wind energy facility complies with all standards properly adopted by the Converse County Board of Commissioners and the standards required by these regulations.
2. No permit shall be granted if the application is incomplete or if all notices required by W.S. 18-5-503 have not been timely given.
3. A copy of the decision shall be served upon the applicant.

Remedies. (W.S. 18-5-508)

1. Any party aggrieved by the final decision of the Converse County Board of Commissioners may have the decision reviewed by the district court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure.
2. When a decision is issued after hearing on an application for a permit under these regulations, the decision is final for purposes of judicial review.

Referral. (W.S. 18-5-509)

1. If the Converse County Board of Commissioners receives an application to permit a wind energy facility which does not meet the definition of a facility as defined in W.S. 35-12-102 (a)(vii), they may refer the facility to the Industrial Siting Council for additional permitting consistent with the requirements of the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119, but the provisions of W.S. 39-15-111 and 39-16-111 shall not apply. A referral shall be made only when the Converse County Board of Commissioners find there are potentially significant adverse environmental, social or economic issues which the Converse County Board of Commissioners does not have the expertise to consider or authority to address.
2. Any facility referred to the Industrial Siting Council under this section may apply to the council for a waiver of permit application pursuant to W.S. 35-12-107.
3. Upon receiving a referral pursuant to this section and within fifteen (15) days after receipt of the referral, the director of the department of environmental quality may reject the referral by giving written notice of the rejection to the county making the referral and the applicant. No appeal from the decision of the director under this subsection shall be allowed.
4. A referral made pursuant to this section shall not relieve the Converse County Board of Commissioners from its obligation to consider whether the proposed wind energy facility should be permitted under the standards required by these regulations.
5. A referral made pursuant to this section shall be made no later than thirty (30) days after an application is deemed complete pursuant to W.S. 18-5-505.

Binding effect. (W.S. 18-5-510)

Upon referral of a facility to the Industrial Siting Council pursuant to W.S. 18-5-509, the facility shall not be withdrawn from the council's consideration without consent of the council. Any decision by the Council shall be final except as provided in these regulations or pursuant to the remedies provided to other facilities permitted by the council.

Revocation or suspension of permit. (W.S. 18-5-511)

A permit may be revoked or suspended for:

1. Any material false statement in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted the refusal to grant a permit;
2. Failure to comply with the terms or conditions of the permit after notice of the failure and reasonable opportunity to correct the failure;

3. Violation of these regulations, the rules and regulations adopted pursuant to these regulations or valid orders of the Converse County Board of County Commissioners or the Industrial Siting Council;
4. Failure of the proposed wind energy facility to receive a required permit from the Industrial Siting Council pursuant to the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119; or
5. Failure of the permitted wind energy facility to:
 - a. Transmit electricity created by wind energy for a period of two (2) consecutive years or more;
 - b. Maintain land rights necessary to operate the wind energy facility.

Penalties for violations. (W.S. 18-5-512)

- (1) No person shall:
 - a. Commence to construct a wind energy facility on or after July 1, 2010 without first obtaining a permit required by these regulations;
 - b. Construct, reconstruct, operate, locate, erect, maintain, enlarge, change or use a wind energy facility, after having first obtained a permit, other than in specific compliance with the permit; or
 - c. Cause any of the acts specified in this subsection to occur.
- (2) Any person violating subsection (1) of this section is liable for a civil penalty of not more than ten thousand dollars (\$10,000.00) for each violation. Each day of a continuing violation constitutes a separate offense.
- (3) Any wind turbine tower or wind generator erected in violation of these regulations shall subject the owner of the tower or generator to a penalty of seven hundred fifty dollars (\$750.00) per day for every tower or generator so erected.
- (4) Any penalties collected pursuant to this section shall be paid and credited as provided by W.S. 8-1-109.

Fees. (W.S. 18-5-513)

The Converse County Board of Commissioners upon receipt of an application under these regulations for the permitting of a wind energy facility shall charge the applicant a fee of \$5,000 minimum or \$250 per tower whichever is greater. The Converse County Board of Commissioners shall charge the applicant these permit fees to cover the anticipated administrative costs of processing and considering the application, conducting public hearings, issuing any building permit and overseeing compliance with the permit conditions and requirements.

Approved and adopted by the Converse County Board of Commissioners November 15, 2010.

All references to Wyoming State Statute are current as of the date of adoption

Severability.

If any part, term, or provision of these regulations shall be held void, illegal, unenforceable, or in conflict with any law of a Federal or State government having jurisdiction over these regulation, such part, term, or provision thereof shall be severed from these regulations and the other provisions shall remain in full force and effect.