Tetra Tech would like to acknowledge the following people who were instrumental in the development of this document by providing their support, information, direction, and review: Loyd Drain, Executive Director of the Wyoming Infrastructure Authority; Todd Parfitt, Deputy Director, Wyoming Department of Environmental Quality; Colin McKee, Wyoming Governor's Office; Chris Petrie, Secretary & Chief Counsel at Wyoming Public Service Commission; Don Threewitt, Commercial Leasing Manager, Office of State Lands & Investments; Temple Stoellinger, Natural Resource Staff Attorney, Wyoming County Commissioners Association; Michael Valle, Renewable Energy Program Lead, Division of Minerals and Lands, Bureau of Land Management - Wyoming State Office; Ashlie Fahrer, Land Law Examiner, Wyoming Renewable Energy Coordination Office, Bureau of Land Management - Wyoming State Office; Pamela Murdock, Project Manager, Bureau of Land Management - Wyoming State Office; Trish Sweanor, Fish and Wildlife Biologist, Wyoming Energy Program Coordinator, U.S. Fish and Wildlife Service; Scott Gamo, Staff Terrestrial Biologist, Wyoming Game and Fish Department; Marlin Duncan, Ground Water Division, Wyoming State Engineer’s Office; Cole Anderson, NRS Air Quality Engineer, Air Quality Division, Wyoming Department of Environmental Quality; Chris Wichmann, Division Manager, Natural Resources and Policy Division, Wyoming Department of Agriculture; Bruce Trembath II, Chief Electrical Inspector, Wyoming State Fire Marshal’s Office.

Our special thanks and acknowledgement are extended to Tom Schroeder, Program Principal with the Wyoming Department of Environmental Quality-Industrial Siting Division, who took a lead role in coordinating this effort with local, state, and federal agencies and whose thoughtful contributions, reviews, and suggestions were greatly appreciated.

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**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.

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1. Introduction

1.1 Purpose and Objectives

The Wyoming Infrastructure Authority (WIA) has requested Tetra Tech to provide assistance to provide information to the Wyoming Renewable Energy Coordination Committee (RECC) for use in reviewing the permitting processes that are required in Wyoming for the development of wind energy projects.

The RECC consists of state and federal agencies working together to share data and ensure efficient and responsible development of renewable energy resources and associated generation and transmission facilities. The purpose of the RECC is to foster federal, state, and local coordination of wind development projects by sharing information to collaborate on areas of jurisdictional overlap. Another goal is to coordinate permitting activities through a shared approach which will offer proponents an easier process to follow from beginning to end. The RECC seeks to ensure that siting, environmental, and other policies are developed collaboratively to facilitate the responsible exploration and development of wind and other renewable energy resources projects in Wyoming. The RECC will also work toward development that is conducted in an environmentally sustainable and transparent manner. The following agencies are represented on the RECC:

- Wyoming Infrastructure Authority;
- Wyoming Governor’s Office;
- Wyoming Department of Environmental Quality, Industrial Siting Division;
- Wyoming Office of State Lands Investments;
- Wyoming Game and Fish Department;
- Wyoming County Commissioners Association;
- U.S. Bureau of Land Management-Renewable Energy Coordination Office;
- U.S. National Park Service; and
- U.S. Fish and Wildlife Service.
Wyoming currently has installed wind capacity of approximately 1,412 megawatts with over 300 megawatts added in 2010 and an additional 7,869.5 megawatts of wind projects in queue (AWEA 2012a). These wind projects will require consultations, development of permit applications, and review by local, state, and federal agencies.

The total U.S. installed capacity is 48,611 megawatts (as of April 2012), and Wyoming currently ranks 11th among all states in terms of installed capacity and 8th among all states in terms of wind energy potential (AWEA 2012a and AWEA 2012b). The Wyoming Office of State Lands (OSLI) and the Bureau of Land Management (BLM) have each created maps illustrating the location of wind projects (potential and existing) on lands under their jurisdiction. The OSLI map shows location and interest in developing wind energy on state trust lands. This map is included for reference in Appendix A and can be found on the OSLI website at: http://slf-web.state.wy.us/oldsite/estate/wind.aspx. The BLM map shows NEPA projects in Wyoming, including wind energy projects. This map is included for reference in Appendix A. In addition, the Wyoming Governor’s Office in coordination with state and federal agencies, have recently 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 (WIA 2012). This map also is included for reference in Appendix A and is available on the WIA website at: http://wyia.org/wp-content/uploads/2011/02/icf-final-report-wyoming-wind-december-2010-revised1.pdf.
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 project consisting of an individual wind turbine or multiple turbines (less than 30) that generate more than 0.5 megawatt of electricity are under the permitting jurisdiction of local county permitting requirements. Commercial wind projects consisting of 30 or more turbines, regardless of construction costs, are under the jurisdiction of the state and/or federal government (see Sections 3 and 4, respectively).

According to W.S. § 18-5-502(a) "It is unlawful to locate, erect, construct, reconstruct, or enlarge a wind energy facility without first obtaining a permit from the board of county commissioners in the county in which the facility is located." Wyoming Statute 18, Chapter 5 (Wind Energy Facilities), identifies application requirements and minimum standards required for permitting wind facilities at the county level. In addition to the statutory requirements, many counties have also developed their own wind energy 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 outlined in Title 18, Chapter 5, and is described below.

Under W.S. § 18-5-505, owners or developers of a wind energy 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 conduct 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 specific deficiencies in the application and the applicant will have 30 days to provide the BOCC with the additional information. If an application is complete the BOCC will notify the applicant and a public hearing will be held no less than 45 days and not more than 60 days after it is determined that the application is 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 wind energy 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 timely given. The contents for the application under Title 18 may be located through the Wyoming Legislative Service Office web page: http://legisweb.state.wy.us/statutes.aspx?file=titles/Title18/T18CH5AR2htm.
In addition to jurisdictional authority over wind energy facilities that generate more than 0.5 megawatt of electricity, according to W.S. § 18-5-509, the BOCC may refer an application for a wind energy facility to the ISC if:

- The wind energy facility does not meet the definition of a facility as defined in W.S. § 35-12-102(a)(vii); and
- When 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 Industrial Development Information and Siting Act, W.S. § 35-12-101 through § 35-12-119. Referrals to the 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 and considering the application and conducting public hearings (W.S. § 18-5-513). The BOCC decision may be reviewed by the district court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure if any party is aggrieved by the final decision.

Wyoming has 23 counties and 99 incorporated municipalities currently. Nine counties have adopted wind energy regulation pursuant to W.S. § 18-5 (Albany, Campbell, Carbon, Converse, Laramie, Lincoln, Natrona, Park, and Platte). Five counties are in the process of adopting wind regulation pursuant to W.S. § 18-5 (Crook, Goshen, Johnson, Sweetwater, and Uinta).

Table 2-1 provides a listing of applicable permitting processes for Wyoming counties and the telephone contact information.

Table 2-1: Wyoming Counties and Permitting Processes

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<td>Albany</td>
<td>Permits: WECS Project Permit required. Fees: $300 per turbine; $100 application fee for filing a development proposal; fees associated with notifying adjacent property owners (property owners within a 5-mile radius of the project’s exterior boundary). Time Frame: Approximately 3–4 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.</td>
<td>(307) 721-2568 County website: <a href="http://www.co.albany.wy.us/">http://www.co.albany.wy.us/</a> Zoning Regulations: <a href="http://www.co.albany.wy.us/Data/Sites/1/SharedFiles/planning/zoning-06-12.pdf">http://www.co.albany.wy.us/Data/Sites/1/SharedFiles/planning/zoning-06-12.pdf</a> WECS Application: <a href="http://www.co.albany.wy.us/SharedFiles/Download.aspx?pageid=188&amp;mid=147&amp;fileid=33">http://www.co.albany.wy.us/SharedFiles/Download.aspx?pageid=188&amp;mid=147&amp;fileid=33</a></td>
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<td>Bighorn</td>
<td>Utility and/or Access permits may be required if the project is tying into existing utilities or county roads. No other fees or permits are required.</td>
<td>(307) 568-2424 County website: <a href="http://www.bighorncountywy.gov/">http://www.bighorncountywy.gov/</a></td>
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| Campbell | **Permits:** WESC Use Permit required.  
**Fees:** $200 per turbine.  
**Time Frame:** No more than 30 days for initial review of application. Typically 90-120 days required from notice of application completeness to final decision by the BOCC (includes time for public notice and hearing before the BOCC).  
**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. | (307) 685-8061 County website: http://www.ccgov.net/ Zoning Regulations: http://www.ccgov.net/departments/publicworks/DOCUMENTS/Zoning%20Regulations%20-%20May%202011.pdf |
| Carbon   | **Permits:** Commercial WECS Conditional Use Permit  
**Fees:** $100 application; fees per number of wind turbines (refer to current Planning and Development Department fee schedule); and actual cost of public notice charges.  
**Time Frame:** No more than 30 days for initial review of application. Typically 90-120 days required for public notice and hearings before the Planning and Zoning Commission and BOCC.  
**Comments:** Applicants are advised to consult with WGF during initial site selection and seek comments from SHPO.  
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. | (307) 328-2651 County website: www.carbonwy.com Zoning Regulations: http://www.carbonwy.com/DocumentView.aspx?DID=514 |
| Converse | **Permits:** WECS Use Permit required.  
**Fees:** $5,000 minimum or $250 per wind turbine, whichever is greater.  
**Time Frame:** No more than 30 days for initial review of application. Typically 90-120 days required from notice of application completeness to final decision by the BOCC (includes time for public notice and hearing before the BOCC).  
**Comments:** Applicant may be required to enter into a road use agreement. | (307) 358-3602 County website: http://conversecounty.org/ Zoning Regulations: http://conversecounty.org/gov-admin/county-commissioners/regulations/windenergyNov152010.pdf |
| Crook    | **Permits:** Permit pursuant to the Crook County Wind Energy Facility Resolution *(Draft).*  
**Fees:** $2,000 per wind turbine. A process and building permit fee may be applicable.  
**Time Frame:** No more than 30 days for initial review of application. Typically 90-120 days required from notice of application completeness to final decision by the BOCC (includes time for public notice and hearing before the BOCC). | (307) 283-4548 County website: http://www.crookcounty.wy.gov/ Zoning Regulations/Permits: http://www.crookcounty.wy.gov/departments/growth_and_development/regulations_and_permits.php |
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<td>Fremont</td>
<td>No permitting or zoning for wind facilities.</td>
<td>(307) 332-1077&lt;br&gt;County website: <a href="http://fremontcountywy.org/">http://fremontcountywy.org/</a></td>
</tr>
<tr>
<td>Goshen</td>
<td>No permitting or zoning for wind facilities. Comments: As of May 2012, the Goshen County is updating their wind energy regulations and requirements, according to county staff.</td>
<td>(307) 532-3852&lt;br&gt;County website: <a href="http://goshencounty.org/">http://goshencounty.org/</a></td>
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<td>Hot Springs</td>
<td><strong>Permits</strong>: Land Use Change and Use Permit required.&lt;br&gt;&lt;br&gt;<strong>Fees</strong>: There are no fees associated with the permits; however, applicants are responsible for incurring costs for public notices, including advertising for public hearings and notifying immediate property owners of the project.&lt;br&gt;&lt;br&gt;<strong>Time Frame</strong>: Typically 60 days needed for permitting process.</td>
<td>(307) 864-2961&lt;br&gt;County website: <a href="http://www.hscounty.com/">http://www.hscounty.com/</a></td>
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<tr>
<td>Johnson</td>
<td><strong>Permits</strong>: Conditional Use Permit required.&lt;br&gt;&lt;br&gt;<strong>Fees</strong>: Application fees may be applicable and shall not exceed the reasonably anticipated costs of processing and considering the application and conduction public hearings. A permit fee may also be collected prior to commencement of construction.&lt;br&gt;&lt;br&gt;<strong>Time Frame</strong>: No more than 30 days for initial review of application. Typically 90–120 days required from notice of application completeness to final decision by the BOCC (includes time for public notice and hearing before the BOCC).&lt;br&gt;&lt;br&gt;<strong>Comments</strong>: Site plan review is required prior construction for all Conditional Uses in any District. As of May 2012, Johnson County is updating their wind energy regulations and requirements, according to county staff.</td>
<td>(307) 684-1907&lt;br&gt;County website: <a href="http://www.johnsoncountywyoming.org/">http://www.johnsoncountywyoming.org/</a> Zoning Regulations: <a href="http://www.johnsoncountywyoming.org/docs/Zoning/Part_III_Supplementary_Provisions.pdf">http://www.johnsoncountywyoming.org/docs/Zoning/Part_III_Supplementary_Provisions.pdf</a></td>
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<td>Laramie</td>
<td><strong>Permits</strong>: 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.&lt;br&gt;&lt;br&gt;<strong>Fees</strong>: Fees are required for both the site plan review and Wind Energy Permit which are determined by the BOCC.&lt;br&gt;&lt;br&gt;<strong>Time Frame</strong>: 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.&lt;br&gt;&lt;br&gt;<strong>Comments</strong>: 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.&lt;br&gt;&lt;br&gt;A building permit may be required prior to the commencement of construction.</td>
<td>(307) 633-4303&lt;br&gt;County website: <a href="http://www.laramiecounty.com/">http://www.laramiecounty.com/</a> Zoning Regulations: <a href="http://www.laramiecounty.com/_departments/planning/_pdfs/2011/June%202011/Laramie%20County%20Land%20Use%20Regulations%2006082011.pdf">http://www.laramiecounty.com/_departments/planning/_pdfs/2011/June%202011/Laramie%20County%20Land%20Use%20Regulations%2006082011.pdf</a></td>
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<td>Natrona</td>
<td>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.</td>
<td>(307) 235-9200 County website: <a href="http://www.natrona.net/">http://www.natrona.net/</a></td>
<td><a href="http://www.natronacounty-wy.gov/DocumentCenter/Home/View/521">http://www.natronacounty-wy.gov/DocumentCenter/Home/View/521</a></td>
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<tr>
<td>Niobrara</td>
<td>Change of Zoning Permit. Permits will be reviewed by the Planning and Zoning Commission (meet 1/month on the 3rd Monday). If approved, the P&amp;Z will recommend the application to the Board of County Commissioners for review. The BOCC will hold a public hearing. Notice must be published in the local newspaper 2 weeks prior to the public hearing.</td>
<td>(307) 334-2211 County website: <a href="http://niobraracounty.org/">http://niobraracounty.org/</a></td>
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<tr>
<td>County</td>
<td>Permits</td>
<td>Fees</td>
<td>Time Frame</td>
<td>Comments</td>
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<tr>
<td>Park</td>
<td>Special Use Permit and Site Plan Review</td>
<td>(SUP) $250 application fee plus cost for advertising for the public hearing. (Site Plan) $250 review fee plus costs for advertising for the public hearing.</td>
<td>Typically requires a couple of months (no less than two).</td>
<td>Proposed projects may require additional review and approval from airport officials for all discretionary development applications for land within a runway protection zone as indicated in the Airport Overlay District. The airport board shall review the application and recommend approval, conditional approval, or denial of the application to the Planning and Zoning Commission and/or Board of County Commissioners. New access, access modification, or change of use permit; weight and size permits and/or other permits maybe required for the use of county, municipal, or state road(s).</td>
<td></td>
</tr>
<tr>
<td>Platte</td>
<td>Special Use Permit required. There is a Preliminary Plan Review Application, which is recommended but not required.</td>
<td>$200 application fee Building Permit, Road Access Permit, Road Use Agreement, Utility Crossing Permit, Weight, or Size permits, and/or other required permits maybe required prior to the commencement of construction.</td>
<td>Requires approximately 3–4 months for review and approval. Building permit (fee dependent on value of structures) and Zoning permit ($150).</td>
<td>As of May 2012, Sheridan County is updating their wind energy regulations and requirements, according to county staff.</td>
<td></td>
</tr>
<tr>
<td>Sheridan</td>
<td>Conditional Use Permit</td>
<td>$475 fee, plus cost of postage. Application must be</td>
<td>Requires approximately 3–4 months for review and approval. Building permit (fee dependent on value of structures) and Zoning permit ($150).</td>
<td>As of May 2012, Sheridan County is updating their wind energy regulations and requirements, according to county staff.</td>
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<tr>
<td>Sublette</td>
<td>Use is not allowed within Sublette County.</td>
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</tbody>
</table>
Table 2-1:
Wyoming Counties and Permitting Processes

<table>
<thead>
<tr>
<th>County</th>
<th>Permitting Process</th>
<th>Contact Information</th>
</tr>
</thead>
</table>
| Sweetwater | **Permits:** Commercial WECS Facility Permit; Construction Permit  
**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 the National Environmental Policy Act 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](http://www.sweet.wy.us)  
| Teton   | **Permits:** Conditional Use Permit is required in conjunction with an Intermediate Development Plan. An intermediate-level Conditional Use Permit would be required for projects that are less than 12,000 square feet of floor area or less than 6,000 square feet of land area.  
**Fees:** $2,000 (CUP); $400 (intermediate-level CUP)  
**Time Frame:** Approximately 4–6 months from the date the application is found sufficient.  
**Comments:** Wind energy facilities are considered a Central Utility and are allowed in every zoning district with an approved Conditional Use Permit. Depending on the location and the extent of the project, additional permit reviews may be required and could result in additional fees. | (307) 733-3959  
County website: [http://www.tetonwyo.org/](http://www.tetonwyo.org/) |
| Uinta   | **Permits:** Conditional Use Permit  
**Fees:** $25 application fee  
**Time Frame:** Approximately 2–6 months  
**Comments:** As of May 2012, Uinta County is updating their wind energy regulations and requirements, according to county staff. | (307) 783-0318  
| Washakie | No permitting process for wind facilities. | (307) 347-6778  
County website: [http://www.washakiecounty.net/](http://www.washakiecounty.net/) |
| Weston | No permitting process for wind facilities. | (307) 746-9497  
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3. State Permitting and Regulatory Requirements

The siting and permitting of wind energy developments in the state of Wyoming will typically involve several state agencies, including the Wyoming Public Service Commission (PSC), Wyoming Department of Environmental Quality (WDEQ), Wyoming State Preservation Office (SHPO), Wyoming Game and Fish Department (WGFD), Wyoming Department of Transportation (WYDOT), Wyoming Office of State Lands and Investment (OSLI), and the Wyoming Department of State Parks and Cultural Resources (WYSPCR). Table 3-1 summarizes these various state agencies, and the applicable permits, forms, and/or consultations required for projects in the state.

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

<table>
<thead>
<tr>
<th>Agency</th>
<th>Study/Permit/Coordination</th>
</tr>
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<tbody>
<tr>
<td>WDEQ, Industrial Siting Division</td>
<td>Wyoming Industrial Siting Act Permit Application (Section 107 or Section 109)</td>
</tr>
<tr>
<td>WDEQ, Water Quality Division</td>
<td>Section 401 Water Quality Certification</td>
</tr>
<tr>
<td>WDEQ, Water Quality Division</td>
<td>WYPDES, Large Construction General Permit (WYR10-0000) and SWPPP</td>
</tr>
<tr>
<td>WDEQ, Air Quality Division</td>
<td>Consultation with WDEQ for compliance with Construction General Emission Standards</td>
</tr>
<tr>
<td>WDEQ, Land Quality Division</td>
<td>Permits for mining and extraction of aggregate (WS § 35-11-401 (a))</td>
</tr>
<tr>
<td>Wyoming PSC</td>
<td>Certificate of Public Convenience and Need</td>
</tr>
<tr>
<td>Wyoming State Engineer</td>
<td>Supervision of waters of the State (Article 8 Section 5 of WY Constitution)</td>
</tr>
<tr>
<td>Fire Marshal, Department of Fire Prevention &amp; Electrical Safety</td>
<td>Jurisdiction over electrical features when facility not regulated by WY PSC (WS § 35-9-120 and Section 90-2 of International Electrical Code)</td>
</tr>
<tr>
<td>Wyoming OSLI</td>
<td>Wind Energy Lease for a Temporary Use Permit</td>
</tr>
<tr>
<td>WYDOT</td>
<td>Utility Permit</td>
</tr>
<tr>
<td>WYDOT</td>
<td>Self-Issue Oversize Permit</td>
</tr>
<tr>
<td>WYDOT</td>
<td>Registration of Meteorological Towers</td>
</tr>
<tr>
<td>WGFD</td>
<td>Consultation to Identify Special Status Species, Wildlife and Aquatic Monitoring Recommendations, Conservation Plan Development, Special Use Permit for crossing Wildlife Habitat Management Area</td>
</tr>
<tr>
<td>Wyoming Department of Agriculture Weed and Pest Control (WWPC)</td>
<td>WWPC Act of 1973 Consultation for Noxious Weeds</td>
</tr>
<tr>
<td>Wyoming SHPO</td>
<td>Determination of Compliance with state and national historic properties under the National Historic Preservation Act Section 106</td>
</tr>
<tr>
<td>WYSPCR</td>
<td>Consultation and permission from park superintendent if crossing a state park</td>
</tr>
</tbody>
</table>
3.1 Wyoming Department of Environmental Quality (WDEQ), Industrial Siting Division (ISD)

The WDEQ Industrial Siting Division (ISD) administers the Wyoming Industrial Development Information and Siting Act (WISA) [Wyoming Statute § 35-12-101:119] and the Rules and Regulations of the Industrial Siting Council, Chapters 1 and 2. The Wyoming Industrial Siting Council (WISC) is a seven-member council created through W.S. § 35-12-104 that reviews the socio-economic 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 WISC permit application addresses the project description, location, schedule, socio-economic baseline conditions, an analysis of the potential socio-economic impacts with the area of impact, and potential environmental impacts. To minimize or prevent duplication of efforts, the WISC permit, the county permit, and the federal agency sometimes utilize common information for their distinct and unique permits. The WISC 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 noted in W.S. § 35-12-102(a), will require a WISA permit from the WISC. Industrial facilities are defined regardless of construction costs, as:

(E) Any commercial facility generating electricity from wind and associated collector systems that:
   (i) Consists of thirty (30) 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 30 turbine threshold.

(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 Energy Projects) and which facility the board of county commissioners has referred to the council under W.S. § 18-5-509 (County Referral).

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 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 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 modification including meteorological towers which are regulated by the Wyoming Department of Transportation.

For facilities permitted under W.S. § 35-12-102(a)(vii)(E) and (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 and wind energy facilities during construction and operation of the facility. 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 WISC, 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 WISC 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 WISC. The financial assurance instrument (i.e., corporate guarantee, letter of credit, bond, etc.) must be provided to the ISD 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 Rules and Regulations of the WISC, Chapters 1 and 2 can be accessed through the Wyoming Secretary of State web page: http://soswy.state.wy.us/Rules/RULES/8186.pdf.

The WISC 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. 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. § 35-110(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 wind facility 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.

Wyoming Statute § 35-12-119(c) lists activities exempt from an ISA permit:

(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.

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

- Local governments must be advised of the project and provided 30 days to reply to the applicant before the application is filed;
- Surface land owners; and
- 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 WISC. 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 or the permit application will be terminated. The application is given to 19 state agencies and to all affected landowners for review and comment. Copies of the agency reviews are given 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 WISC. 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 WISC conducts a hearing in the form of a contested case hearing with sworn testimonies and examination and cross examination of witnesses. Those persons with statutory eligibility are able to participate.

The WISC 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
- The applicant has the financial resources to construct, maintain, operate, decommission, and reclaim the facility.

In making its decision the WISC may add permit conditions and, under certain circumstances, relocate all or part of the proposed facility to mitigate identified impacts. The WISC sets the construction schedule of the project. A written decision on issuance or denial of the permit will be issued within approximately 175 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 web page at: [http://deq.state.wy.us/isd/isdnews.htm](http://deq.state.wy.us/isd/isdnews.htm). Decisions of the WISC may be appealed by the applicant or any party to the district court within 30 days of the written decision.

Contact Information:
Wyoming Department of Environmental Quality, Industrial Siting Division
Herschler Building, 4 West
122 West 25th Street, Cheyenne, WY 82002
(307) 777-7369
[http://WDEQ.state.wy.us/isd/](http://WDEQ.state.wy.us/isd/)

### 3.2 Wyoming Department of Environmental Quality (WDEQ), Water Quality Division (WQD)

#### 3.2.1 Clean Water Act (CWA), Section 401 Water Quality Certification

The WDEQ Water Quality Division (WQD) is the responsible state agency for CWA Section 401 water quality certification. Section 401 of the Clean Water Act (CWA) states, in part, that any applicant “for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into navigable waters, shall provide the licensing or permitting agency a certification from the state in which the discharge originates or will originate if appropriate” (Section 401(a)(1)). No federal license or permit would be granted if certification has been denied by the state. Section 401 certification would be required.
Any project requiring compliance with Section 404 of the CWA would require 401 certification (Section 401(a)(1)) from the WDEQ-WQD. A joint WDEQ and U.S. Army Corps of Engineers (USACE) public notice is issued prior to the issuance of all individual 404 permits by the usage. There is no public notice prior to the authorization of any activity under a Section 404 nationwide or statewide general permit from the state of Wyoming.

Certification under Section 401 can be granted under the nationwide permitting process for most areas in Wyoming. However, an Individual 404 Permit and certification would be required for crossing of Class I waters. Because of the high level of protection afforded to these waters by the regulations, authorization of the activities covered by the nationwide permitting process without individual departmental review is not permissible. These waters in Wyoming include (WDEQ 2007):

- 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 U.S.;
- 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 Tongue River, the main stem of the North Fork of the Tongue River, and the main stem of the South Fork of the Tongue River above the U.S. Forest Service Boundary;
- The main stem of the Sweetwater River above the mouth of Alkali Creek;
- The main stem of the Encampment River from the northern U.S. Forest Service boundary upstream to the Colorado state line;
- The main stem of the Clarks Fork River from the U.S. Forest Service 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
• Wetlands adjacent to the above listed Class 1 waters.

The permit process timeline is part of the permitting timeline for the Section 404 permit application process to USACE. If an individual Section 401 permit is required, WDEQ conducts a separate public notice and comment period prior to issuing the Section 401 certification. The public notice and comment period consists of a 15- to 30-day period during which comments are solicited from the public and resource agencies.

Contact Information:
Wyoming DEQ, Water Quality Division
122 W.25th, 4 West, Cheyenne, WY 82002
(307) 777-7781

3.2.2 Wyoming Pollutant Discharge Elimination System (WYPDES)

The WDEQ-WQD is the state agency responsible for regulating the Wyoming Pollutant Discharge Elimination System (WYPDES) program in the state of Wyoming. The permit requirement for wind energy development projects that disturb five or more acres is called a Large Construction General Permit (LCGP) WYR10-0000. The LCGP regulates stormwater discharges from all construction activities that disturb five 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. The SCGP 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 (BMPs) 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 WYPDES permit is required.

In addition, operators of large construction projects must determine whether any part of the project falls within a Greater Sage-Grouse Core Area (SGCA) before applying for coverage under the LCGP. If any part of a project falls within an SGCA, coordination with WGFD-WQD is necessary and a letter must be obtained confirming consistency with the Executive Order (EO 2011-4) prior to applying for coverage under the LCGP.
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 means that areas of the construction site that do not have permanent structures such as buildings or roads must be revegetated with perennial vegetation to a uniform 70 percent of natural background cover.

3.2.3  Permits to Construct Water & 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 (WDEQ), Air Quality Division (AQD)

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 of the turbines structures or ancillary features (e.g., office/maintenance buildings). 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 wind energy 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.

The Industrial Siting permit application reports plans for fugitive dust control and methods to ensure compliance with fugitive dust regulations (e.g., truck speed, remedy of complaints) as required by W.S. § 35-12-109(a)(ix). WDEQ-AQD is one of 19 state agencies charged with the statutory review of permit applications to the Industrial Siting Council. Section 110(c) of the Industrial Development Information and Siting Act requires the Department to recommend approval or denial of a permit, provide reasons, and provide any recommendations for permit conditions. Furthermore, the WDEQ-AQD must disclose any regulatory jurisdiction over the project and notify the Industrial Siting Division of its ability to effectively regulate the project.

Contact Information:
Wyoming DEQ, Air Quality Division
122 W.25th Street, Cheyenne, WY 82002
(307) 777-7391

3.4 Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD)

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 wind energy projects. LQD staff review Industrial Siting permit applications for mines and mining issues and make any necessary recommendations to the Siting Council.

Contact Information:
Wyoming DEQ, Land Quality Division
122 W.25th Street, 3 West, Cheyenne, WY 82002

3.4.1 Abandoned Mine Lands Division (AML)

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

Contact Information:
Wyoming DEQ, Abandoned Mine Lands Division
122 W.25th Street, 1 West, Cheyenne, WY 82002
3.5 **Wyoming Public Service Commission (PSC)**

Pursuant to W.S. § 37-2-205, public utilities as defined by W.S. § 37-1-101(a)(vi) are required to obtain a Certificate of Public Convenience and Necessity (CPCN) from the PSC prior to construction of certain facilities. Electric generating plants, including wind generation facilities are “Major Utility Facilities” as defined by Section 202 of the PSC’s Procedural Rules and Special Regulations (rules). These rules are available on line at: [http://soswy.state.wy.us/rules/](http://soswy.state.wy.us/rules/). Wind generators and associated facilities constructed by public utilities are therefore subject to CPCN requirement. PSC requirements apply only to jurisdictional public utilities as defined by Wyoming Statute § 37-1-101. They do not apply to merchant (wholesale) generators who do not provide retail service to the public.

To determine whether a CPCN should be granted, the PSC 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. Sections 204, 205, and 206 of the PSC’s rules require that CPCN applications proposing the construction of generation facilities include the following information:

- The name and address of the applicant;
- The type of plant, property or facility proposed to be constructed;
- A 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 when they become available;
- The rates, if any, proposed to be charged for the service that will be rendered because of the proposed construction;
- The estimated total cost of the proposed construction;
- A statement of the manner by which the proposed construction will be financed;
- A statement of the financial condition of the applicant;
- The estimated annual operating revenues and expenses expected to accrue from the proposed construction;
- The estimated starting and completion date of the proposed construction;
- A 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; a description of the route of line or lines in the project and the number of route miles located in each county; a description of the various types of country in or through which the facility will be constructed;
• A 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 rights-of-way or of minerals and water for the project, the sources or locations thereof, and the proposed method of transportation and utilization;
• A 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 which the construction of this facility will make available;
• A statement of the effect of the project on applicant's and other systems' stability and reliability, if applicable;
• A 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; and applicant shall file such agency's final order when entered.
• A 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;
• The 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;
• A geological report of the station site including foundation conditions, groundwater conditions, 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 above are considered “Major Utility Facilities” and are subject to the foregoing requirements. 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.

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 (WSEO)

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

The WSEO does have regulatory jurisdiction over certain portions of wind energy projects, particularly 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 4 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.”

Wind energy projects will be required to obtain the appropriate groundwater permits SEO–Ground Water Division prior to commencing construction of any wells required for the project (W.S. § 41-3-930).

If the wind energy project applicant applies for an industrial siting 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).

The final opinion shall be submitted to the ISC and the PSC and is binding on the ISC for the purposes of issuing an industrial siting permit and shall be reviewed by the PSC prior to its issuance of a certificate of public convenience and necessity. 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.

In the event senior area appropriators experience unreasonable interference to their adequate wells, they can seek relief under W.S. § 41-3-911. The State Engineer may, on complaint of the operator of a stock or domestic well, order the interfering appropriator to cease or reduce withdrawals of underground water, unless such appropriator shall furnish at his own expense, sufficient water at the former place of use to meet the need for domestic or stock use.

**Contact Information:**
Ground Water Division
State Engineer’s Office
122 W. 25th Street, 4 East, Cheyenne, WY 82002
(307) 777-6163
3.7 Fire Marshal; Department of Fire Prevention & Electrical Safety

The Wyoming Division of Electrical Safety enforces the National Electrical Code (NEC) adopted by Statute 35-9-120 and has jurisdiction with facilities not exempted by Section 90.2 of the NEC. Facilities not exempt can be examined and approved by a State Electrical Inspector.

The Department is one of 19 state agencies charged with the statutory review of permit applications to the Industrial Siting Council. Section 110(c) of the Industrial Development Information and Siting Act 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 Industrial Siting Division of its ability to effectively regulate the project.

Contact Information:
Wyoming State Fire Marshal
122 W. 25th, 1 West, Cheyenne, WY 82002
(307) 777-7288

3.8 Wyoming Office of State Lands and Investments (OSLI)-State Land Easements

Wind energy development on Wyoming state trust lands is under the jurisdiction of the State Board of Land Commissioners (Board) and administered through the Wyoming OSLI. The Rules and Regulations of the Board of Land Commissioners allow for wind energy development through a Wind Energy Lease (Chapter 6) for a Temporary Use Permit (Chapter 14).

Wind Energy Leases are leases made through a Wyoming Wind Energy Lease Agreement and provide the lessee with exclusive wind energy development rights of the state trust land within the lease. The Wind Energy Lease Agreement requires compliance with other governmental agencies. In additions, the agreement is subject to any existing uses. An applicant for a Wind Energy Lease must consult with any existing lease holder (i.e., the grazing lease holder) prior to issuance of a Wind Energy Lease to determine whether the existing use is compatible with wind energy development. The term of the lease is for the anticipated life of the project (e.g., feasibility and data collection, construction, and operation) and is usually 35 years. However, a lease may be renewed for a period not to exceed a total of 75 years. A reclamation bond is required and the land is to be reclaimed. A completed application is submitted to the OSLI with a $25.00 application fee and the applicants first year’s rental offer. The application is available on the OSLI website: http://lands.state.wy.us/index.php/surface/special-use-leases. The application process,
including final approval, can take several months. Once the application has been submitted, the OSLI will:

- Review of the applicant as to 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 of the state trust lands being applied for to determine that potential conflicts can be and will be mitigated by the wind lessee. Such conflicts could include those with existing uses, wildlife, cultural and historic, and other conflicts as identified.
- Determine as to whether the parcel is within an SGCA and appropriate stipulations applied.
- Negotiate and come to agreement on the terms and conditions of the lease to fair market value that include (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 the meeting.

A Surface Impact Payment is negotiated between existing lessees and the wind lessee for negative impacts to the state trust land and the leasehold estate. These payments are paid directly to the existing lessee according to Chapter 6 of the Rules. Prior to surface disturbance, the wind lessee must have made the surface impact payment.

Temporary Use Permits are issued for the installation and monitoring of meteorological towers and stations. 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 $25.00 filing fee is submitted with the application. The process from application to final approval is typically 2 months. The permittee shall:

- 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.

After the permit is submitted, preliminary approval shall be granted not less than 20 days or more than 30 days by the Director of OSLI after receipt of the completed application. After preliminary approval, the applicant may commence installation and operation of the met
tower facility but assumes the risk that the Board may ultimately disapprove. Final approval is made by the Board at their regular scheduled meetings, which are held every other month.

Contact Information:
Wyoming Office of State Lands and Investments
122 W. 25th Street, 3 West, Cheyenne, WY 82002
slfmail@wyo.gov
(307) 777-7331

3.9 Wyoming Department of Transportation (WYDOT)

3.9.1 Wyoming Meteorological Towers (MET) Reporting System

Wyoming has enacted requirements to report the erection and removal of MET towers to protect commercial and civil aviation in the state. Persons owning or leasing a structure meeting the reporting requirements of W.S. 10-4-305 shall submit, as described in Section 3 of this rule, the following information to the Wyoming Aeronautics Division of the Wyoming Department of Transportation on or before April 30, 2009, for every structure erected before April 30, 2009.

- 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.

For any structure meeting the reporting requirements of W.S. 10-4-305 and erected or raised after April 30, 2009, a report shall be filed not less than 10 days before erection or raising. Any person removing a structure subject to the reporting requirements of W.S. 10-4-305 shall report the removal using the procedures described in Section 3 of this rule within 10 days.

The Wyoming Department of Transportation 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 Wyoming Department of Transportation using the Wyoming Meteorological Towers Reporting System through the following electronic address: http://www.dot.state.wy.us, and then navigating from there to the Aeronautics/Met Tower Reporting page.
### 3.9.2 Utility Permit from WYDOT

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 (State of Wyoming 2007).


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 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., multi-piece equipment, forest products, etc.). Guidelines and requirements for obtaining each type of permit can be found at: [http://whp.dot.state.wy.us/files/content/sites/whp/files/shared/Owl/Size%20and%20Weight%20Rules%5B1%5D.pdf](http://whp.dot.state.wy.us/files/content/sites/whp/files/shared/Owl/Size%20and%20Weight%20Rules%5B1%5D.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).

Applicants requesting a Class C permit must fill out Form M-45, which can be found on the WYDOT web page: [http://www.whp.dot.state.wy.us/wydot/owl/self_issuing_permits/policies](http://www.whp.dot.state.wy.us/wydot/owl/self_issuing_permits/policies). 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;
- 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.
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 (MUTCD) and 23 Code of Federal Regulations (CFR) Part 630, Subpart J.

No application fee is specified by WYDOT for a Utility Permit. The Overweight Permit for oversize loads would cost $15 for any vehicle or load that exceeds the statutory limits, plus an additional $0.03 for each foot or fraction thereof in excess of the statutory limits for each mile traveled. The Overweight Permit for overweight loads would cost $0.04 for each ton or fraction thereof in excess of the statutory limits for each mile traveled, with a minimum fee of $25. The utility permit application review could take from 2 weeks to 2 months depending on WYDOT staff availability.

Contact Information:
Wyoming Department of Transportation
Right-of-Way
5300 Bishop Blvd., Cheyenne, WY 82009
Toll-Free 1-888-570-9908

3.10 Wyoming Game and Fish Department (WGFD)
3.10.1 Consultation to Identify Special Status Species

WGFD is the responsible state agency for consultation concerning state listed special status species. WGFD would be consulted to identify species on the state Species of Special Concern list or other sensitive species that may be affected by wind energy development projects. While WGFD would not directly issue permits related to wind energy development projects, WGFD would be involved in consultation to determine environmental impacts as part of the Industrial Siting Permit Application, Section 404 permit, and Section 401 certification. In addition, state Species of Special Concern would be evaluated in an Environmental Impact Statement (EIS) if a federal NEPA process is required for wind energy development projects. Coordination with the U.S. Fish and Wildlife Service's (USFWS's) Wyoming Ecological Services Field Office is also important for all wind development and can help ensure compliance with federal laws.

Wyoming Game and Fish Commission Regulations, Chapter 52, Nongame Wildlife, Section 52, Protected Animals, states nongame wildlife listed in this section are defined as protected animals under W.S. § 23-1-101 and may only be taken in accordance with Commission Regulation Chapter 33, Issuance of Scientific or Educational Permits.

WGFD would be consulted at the beginning of the state or federal permit application process to address concerns for state species of special concern and for those species listed above as protected animals. WGFD recommends that project developers consult with WGFD at
least 2 years prior to submitting permit applications so that appropriate studies can be conducted and site-specific recommendations can be developed.

WGFD considers loss of habitat and concurrent fragmentation of habitats as the principal concern when evaluating potential perturbations to the landscape and the effect on wildlife species; however, cumulative impacts and direct and indirect impacts (e.g., collision with turbines and alterations of migratory pathways, respectively) also contribute to declines in species habitats. Crucial habitats (i.e., big game ranges, seasonal habitats, and Species of Greatest Conservation Need (SGCN), etc.), and the wildlife they support, are dependent upon maintaining adequate habitat connectivity across the state to ensure crucial habitat components within the state are not isolated from other crucial habitats through habitat fragmentation and construction of barriers.

WGFD has developed recommendations that fall within the broad guidelines developed by the Wind Turbine Guidelines Federal Advisory Committee (FAC), a 22 member committee convened by the DOI. The FAC Guidelines (2010) that were developed were aimed at minimizing the impacts of land-based wind farms on wildlife and their habitat. In November 2010, WGFD approved “Wind Protection Recommendations for Wind Energy Development in Wyoming” (document), which will be used as the basis for the agency’s consultative obligation to the WISC. The main purpose of the document is to provide recommendations for (1) collecting baseline data prior to turbine siting to avoid potential conflicts with wildlife; (2) construction and operations monitoring; and (3) mitigating impacts to affected wildlife.

WGFD offers a three-tiered approach to their review of wind development that is consistent with the FAC Draft Guidelines (WGFD 2010).

1. Tier 1—Site Selection—the objective of this tier is to help the developer identify site(s) to consider or reject for wind development based on potential or known conflicts with wildlife resources.

2. Tier 2—Field Monitoring to Document Wildlife Conditions and Potentially Predict Project Impacts—the objective of this tier is to identify site-specific conditions regarding wildlife species and habitats based on pre-construction monitoring.

3. Tier 3—During and Post-Construction Monitoring—this tier identifies impacts to species and habitats and can provide the basis for designing and implementing appropriate mitigation.

The document provides advanced disclosure of potential wildlife-related concerns (direct and indirect impacts) with wind development as it relates to bats; passerines and raptor; greater sage-grouse and sharp-tailed grouse; migratory waterfowl, waterbirds, and shorebirds; big game; small mammals; amphibians and reptiles (including SGCN), and aquatic habitat concerns.

Recommendations, including BMPs, monitoring recommendations, and reclamation and mitigation practices, provided by WGFD are intended to assist wind developers and
regulatory and land management agencies with project siting, design, and construction and operations to conserve wildlife. Examples of BMPs included in the document are listed below:

- Recommended seasonal restrictions within project areas as they relate to specific species (e.g., sage-grouse, sharp-tailed grouse, big game winter ranges, etc.);
- Recommended avoidance areas (e.g., greater sage-grouse core areas);
- Coordination with WGFD if project areas are within a specified distance of a wildlife habitat management area; and
- Coordination with WGFD and USFWS if project areas are within a specified distance of federal wildlife refuges.

A complete list of the wind energy development BMPs can be located on WGFD website: http://wgfd.wyo.gov/web2011/wildlife-1000453.aspx.

WGFD also developed recommendations for baseline data collection and monitoring to help lessen future impacts to wildlife and to facilitate planning for wind development. These recommendations can be located on the WGFD website. Prior to entering into any agreement with a wind energy developer to undertake studies or monitoring activities on private lands that precede efforts to develop a Conservation Plan, the developer must provide WGFD with a written statement certifying that all affected landowner(s) (as defined in W.S. § 35-12-102(a)(xv)) 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. Baseline data and monitoring reports will be provided to the WGFD Habitat Protection Office and appropriate Regional Office on an annual basis. Monitoring surveys for bats, passerines and raptor, sage-grouse, big game, and amphibian and reptile surveys are recommended to be conducted for a minimum of 2 years prior to construction and a minimum of 3 years post-construction. Some species may be subject to seasonal restrictions for monitoring and survey activities.

Recommendations provided by WGFD may not be applicable to all wind projects and are intended to be applied based on specific characteristics of project site. In addition, recommendations apply only to that portion of collector lines located within a wind generation project area boundary. Recommendations for collector lines outside of a wind generation project area boundary and for transmission lines will be developed on a case-by-case basis.

Prior to entering into any discussions with WGFD, but in no case no less than 6 months prior to the submission of an application for development, the developer shall provide a list of contact information for all affected landowner(s). WGFD will not meet with developers until a
list is provided. In coordination, the developer and WGFD will notify affected landowners of all meetings between WGFD and the developer.

Prior to WGFD’s submittal of recommendations to the ISC and/or local governments, the department shall collaborate with the affected landowners, and the developer to develop a Conservation Plan for affected private lands incorporating mutually agreed upon goals and practices. The Conservation Plan that is developed will become WGFD “recommendations” under W.S. § 35-12-110 (b) and (c) and the WGFD recommendations to any local government entity. If any parties decline to participate in the Conservation Plan process, or a Conservation Plan is not successfully developed and signed, then:

- WGFD shall provide contact information provided by the developer for all affected landowners to the ISC.
- The landowner(s), with or without the concurrence of the developer, may submit a conservation plan to the ISC.
- The WGFD may make recommendations to ISC as provided by statute as to lands not under a joint Conservation Plan.
- The process as outlined in the Industrial Development and Siting Act.

The state of Wyoming has adopted Executive Order (EO 2011-5), Greater Sage-Grouse Core Area Protection to ensure greater sage-grouse conservation. Wind energy development is not recommended in greater sage-grouse Core Areas; however, if the proposed project is located in an area designated by the state as a Greater Sage-Grouse Core Population Area, additional consultation should be pursued with WGFD on the core area strategy as it relates to the project. The Wyoming Game and Fish Commission (WGFC) has recommended to the WISC that no wind turbines be constructed in greater sage-grouse core area without clear demonstration from the project proponent that the activity will not cause a decline in greater sage-grouse populations. W.S. § 35-12-110(c) allows WGFD to recommend appropriate conditions that might be included in the ISC permit.

Contact Information:
Wyoming Game and Fish Department
5400 Bishop Blvd., Cheyenne, WY 82006
(307) 777-4600

3.10.2 Special Use Permit within Habitat Management Area
The WGFD 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 (WHMA) would require a Special Use Permit from WGFD. There are 36 WHMAs as listed in Table 3-2.
Table 3-2: WDGF Wildlife Management Areas

<table>
<thead>
<tr>
<th>Wildlife Habitat Management Area</th>
<th>Wildlife Habitat Management Area</th>
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<tbody>
<tr>
<td>1. Amsden Creek Wildlife Habitat Management Area</td>
<td>19. Rawhide Wildlife Habitat Management Area</td>
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<tr>
<td>2. Bud Love Wildlife Habitat Management Area</td>
<td>20. Red Canyon Wildlife Habitat Management Area</td>
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<tr>
<td>3. Camp Creek/Horse Creek Wildlife Habitat Management Area</td>
<td>21. Red Rim-Daley Wildlife Habitat Management Area</td>
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<tr>
<td>4. Chain Lakes Wildlife Habitat Management Area</td>
<td>22. Red Rim-Grizzly Wildlife Habitat Management Area</td>
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<tr>
<td>5. Ed O. Taylor Wildlife Habitat Management Area</td>
<td>23. Renner Wildlife Habitat Management Area</td>
</tr>
<tr>
<td>6. Forbes/Sheep Mountain Wildlife Habitat Management Area</td>
<td>24. Sand Mesa Wildlife Habitat Management Area</td>
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<tr>
<td>7. Grayrocks Wildlife Habitat Management Area</td>
<td>25. Soda Lake Wildlife Habitat Management Area</td>
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<td>8. Greys River Wildlife Habitat Management Area</td>
<td>26. South Park Wildlife Habitat Management Area</td>
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<tr>
<td>9. Half Moon Wildlife Habitat Management Area</td>
<td>27. Spence/Moriarity Wildlife Habitat Management Area</td>
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<tr>
<td>10. The Kerns Wildlife Habitat Management Area</td>
<td>28. Springer Wildlife Habitat Management Area</td>
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<tr>
<td>11. Kirk Inberg/Kevin Roy Wildlife Habitat Management Area</td>
<td>29. Sunlight Wildlife Habitat Management Area</td>
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<tr>
<td>12. Laramie Peak Wildlife Habitat Management Area</td>
<td>30. Sunshine Wildlife Habitat Management Area</td>
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<tr>
<td>13. Lost Creek Wildlife Habitat Management Area</td>
<td>31. Table Mountain Wildlife Habitat Management Area</td>
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<td>14. Medicine Lodge Wildlife Habitat Management Area</td>
<td>32. Teton Wildlife Habitat Management Area</td>
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<tr>
<td>15. Mexican Creek Wildlife Habitat Management Area</td>
<td>33. Tom Thorne/Beth Williams Wildlife Habitat Management Area</td>
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<tr>
<td>16. Morgan Creek Wildlife Habitat Management Area</td>
<td>34. Whiskey Basin/Little Red Creek Wildlife Habitat Management Area</td>
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<tr>
<td>17. Ocean Lake Wildlife Habitat Management Area</td>
<td>35. Wick/Beumee Wildlife Habitat Management Area</td>
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<tr>
<td>18. Pennock Mountain Wildlife Habitat Management Area</td>
<td>36. Yellowtail Wildlife Habitat Management Area</td>
</tr>
</tbody>
</table>

WGFD may issue a Special Use Permit 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. “Special use” is defined as any activity that is not defined as public use or any use that could conflict with the purpose for which the land or water was acquired or is administered by the WGFC. A Special Use Permit may contain conditions and/or restrictions on said use at the discretion of WGFD to protect wildlife, wildlife habitat, public safety, and public use. Special use applications should include the following information (WGFD Regulations Chapter 23, Section 8):

- 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 may assess an application-processing fee to cover administrative costs. In addition, WGFD may require the filing of a bond with satisfactory surety payment to the Commission 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.

Special use permit applications should be submitted through the Lands Administration Section of WGFD not less than 60 days prior to the date of the requested special use.

3.11 Wyoming Department of Agriculture Weed and Pest Council (WWPC)

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 industrial facility permit applications to see if there would be changes to land use, including changes to agricultural production, as a consequence of the project (WDEQ 2011). The WWPC is one of 19 state agencies charged with statutory review of permit applications to the Industrial Siting Council. Section 110(c) of the Industrial Development Information and Siting Act 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 Industrial Siting Division 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 (SHPO)

Per Wyoming Statutes § 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 of Land Commissioners. The State Board of Land Commissioners 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 permits are issued by the OSLI: a survey and limited testing permit, and a permit to conduct archaeological data recovery or 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 OSLI.

The Wyoming SHPO does not charge fees for Section 106 review or other review. Fees may be incurred for file searches; these are charged at $30 per section.

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.

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 (WYSPCR)

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

The Department of State Parks and Cultural Resources, 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 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.

State parks and historic sites as listed in W.S. § 36-8-501-1501.
3.14 **Eminent Domain**

In 2010, the Wyoming legislature put in place a temporary moratorium on the use of eminent domain for “the erection, placement or expansion of collector systems associated with commercial facilities generating electricity from wind” (W.S. § 1-26-815(d)). This one-year moratorium was set to expire on June 30, 2011. However, in March 2011, the Wyoming legislature passed House Bill 230, which would extend the moratorium through June 30, 2013. “Collector systems” as defined in W.S. § 1-26-815(d) means the conductor infrastructure, including conductors, towers, substations, switchgear and other components that are used to deliver power from commercial facilities generating electricity from wind up to but not including electric substations or interconnection facilities associated with or proposed transmission lines that serve to load or that export energy from Wyoming. House Bill 230 is available on the web: [http://legiscan.com/gails/text/202207](http://legiscan.com/gails/text/202207).
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

<table>
<thead>
<tr>
<th>Agency</th>
<th>Study/Permit/Consultation</th>
</tr>
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<tbody>
<tr>
<td>National Environmental Policy Act (NEPA)</td>
<td>Environmental Impact Statement (EIS)—Various Agencies Environmental Analysis (EA)—Various Agencies</td>
</tr>
<tr>
<td>U.S. Environmental Protection Agency (NEPA)</td>
<td>Clean Water Act (CWA) Section 401—Water Quality Certification Section 402—National Pollutant Discharge Elimination System (NPDES)</td>
</tr>
<tr>
<td>U.S. Army Corps of Engineers (USACE)</td>
<td>Clean Water Act (CWA) Section 404—Discharge to and Fill in Waters of the U.S.</td>
</tr>
<tr>
<td>National Historic Preservation Act</td>
<td>Section 106</td>
</tr>
<tr>
<td>U.S. Fish and Wildlife Service (USFWS)</td>
<td>Endangered Species Act (ESA) Section 7 Consultation Endangered Species Act (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 Special Use Permit (SF299)</td>
</tr>
<tr>
<td>U.S. Federal Energy Regulatory Commission</td>
<td>Rate filing</td>
</tr>
<tr>
<td>U.S. Federal Highway Administration (FHWA)</td>
<td>Consulted and permits required for utility crossing or encroachments on National Highway System and/or the Interstate Highway System</td>
</tr>
<tr>
<td>U.S. Department of Energy (DOE)—Western Area Power Administration (Western)</td>
<td>Interconnection to a transmission line owned or managed by Western requires NEPA Compliance</td>
</tr>
<tr>
<td>U.S. Department of Agriculture</td>
<td>Rural Utilities Service (RUS) Borrower’s Request for Funding—Requires NEPA Compliance U.S. Forest Services (USFS)—Requires NEPA Compliance; Special Use Permit; Right-of-Way Grant</td>
</tr>
<tr>
<td>U.S. Natural Resources Conservation Service (NRCS)</td>
<td>Farmland Protection Policy Act</td>
</tr>
<tr>
<td>U.S. Department of Defense (DOD)</td>
<td>ROW Request</td>
</tr>
<tr>
<td>U.S. Department of Interior</td>
<td>Bureau of Indian Affairs (BIA) Bureau of Land Management (BLM)—ROW/Special Use Permit Bureau of Reclamation (BOR)—ROW grant application National Park Service (NPS)—ROW application</td>
</tr>
<tr>
<td>U.S. Federal Aviation Administration (FAA)</td>
<td>Form 7460-1</td>
</tr>
<tr>
<td>U.S. Federal Communications Commission (FCC)</td>
<td>Consult to avoid line-of-sight obstruction</td>
</tr>
</tbody>
</table>
4.1 National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS), Various Agencies

Implementation of the National Environmental Policy Act (NEPA) is required when a federal action is proposed that may have impacts on the human or natural environment. Federal actions include those that occur on federal lands, or require the use of federal funding, permits, facilities, equipment, or employees. A NEPA EIS is required for federal actions that may have a significant impact on the human or natural 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/ Bureau of Land Management (BLM), National Park Service (NPS), Bureau of Indian Affairs (BIA), Bureau of Reclamation (BOR);
- U.S. Department of Agriculture, Forest Service (USFS); and
- U.S. Department of Energy (DOE), Western Area Power Administration (Western).

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 (CEQ) 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 (ITP) for wildlife impacts from USFWS, then comprehensive NEPA review would be required and an Environmental Assessment (EA) and/or an EIS would need to be prepared. Issuance of coverage under general USACE permits and Federal Aviation Administration (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.
Table 4-2: NEPA Permitting Scenarios

<table>
<thead>
<tr>
<th>Scenario 1: NEPA, No State and Local Permitting Required</th>
<th>Scenario 2: NEPA with State/Local Permitting Required</th>
<th>Scenario 3: Limited NEPA with State and Local Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Action/NEPA Trigger</td>
<td>Federal Funding</td>
<td>404 Permit for wetlands impacts</td>
</tr>
<tr>
<td>- Federal Ownership</td>
<td>- Funding</td>
<td>- Endangered Species Act Section 10 Compliance</td>
</tr>
<tr>
<td>- Eagle Act Permit</td>
<td>- Eagle Act Permit</td>
<td>- Eagle Act Permit</td>
</tr>
<tr>
<td>Lead Federal Agency</td>
<td>Western U.S. Department of Agriculture, Rural Utilities Service</td>
<td>U.S. Army Corps of Engineers</td>
</tr>
<tr>
<td>- BLM, USFS, Western, BOR, NPS, BIA, DOE, USFWS</td>
<td>- US. Department of Agriculture, Rural Utilities Service</td>
<td>- USFWS</td>
</tr>
<tr>
<td>NEPA Scope</td>
<td>Limited to geographic scope of federal nexus</td>
<td>Limited to geographic scope of federal nexus</td>
</tr>
<tr>
<td>State and Local Compliance</td>
<td>Accomplished through federal agency-led Environmental Analysis</td>
<td>Would require separate state and local permitting</td>
</tr>
<tr>
<td>Endangered Species Act Compliance</td>
<td>Section 7</td>
<td>Section 7</td>
</tr>
<tr>
<td>The CEQ Regulations Implementing NEPA (40 CFR Parts 1500–1508) define the terms categorical exclusion, EA, and EIS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- &quot;Categorical exclusion&quot; 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 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).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- “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. 3. Facilitate preparation of a statement when one is</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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 three scenarios are summarized in Table 4-2: NEPA Permitting Scenarios:

- Scenario 1: NEPA, No State/Local Permitting Required;
- Scenario 2: NEPA with State/Local Permitting; and
- Scenario 3: Limited NEPA with State/Local Permitting.

The NEPA process evaluates potential effects of wind energy development projects on environmental resources, such as land use, threatened and endangered species, wetlands, cultural and historic properties, socio-economics, scenic areas, and other resources.

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; by participating in the scoping process; in developing information and preparing environmental analyses, including portions of the EIS concerning which the cooperating agency has special expertise; and in making available staff support at the lead agency's request to enhance the lead agency's interdisciplinary capabilities (USEPA 2012).

The timeframe for an EIS would be approximately 24 to 60 months, and the timeframe for an EA would be approximately 6 to 24 months. These timeframes are based on previous experience and are not statutory timeframes. Three years of pre-construction data may be necessary for an eagle take permit application.

For an EIS, NEPA compliance consists of the following public involvement requirements: scoping, comments on the draft EIS, 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 (DOE), Western Area Power
Administration (Western)

Western is one of four power marketing administrations within DOE. Western owns
and maintains more than 10 percent of the transmission lines in the Western
Electricity Coordinating Council (WECC) area. In fiscal year (FY) 2010, Western
operated and maintained more than 17,000 miles of transmission lines and almost
315 substations in its operating area (Western 2010). To date,
Western has interconnected more than 1,030 megawatts of
renewable wind energy and anticipates interconnecting an additional
11,200 megawatts from approximately 68 proposed wind projects
(Western 2011). Construction and operation of a wind energy facility
with a gen-tie connection to a transmission line owned at least in
part by Western would constitute a major federal action, which
would trigger NEPA compliance with Western 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 megawatts (averaged throughout a one-year period) (10 CFR
1021, Appendix D (D7). An EA would be required if the proposed action would generate less
than 50 average megawatts (10 CFR 1021, Appendix C (D7).

Scenario 1 (Table 4-2) is characterized by a full EIS process with Western 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 Western or if Western owned at least a portion of
the gen-tie line or the transmission line that the gen-tie would connect into. Western would
make every effort to ensure the project’s compatibility with state and local permitting
requirements, local land use plans, and zoning regulations.
4.3 U.S. Department of Agriculture (USDA)

4.3.1 Rural Utilities Service (RUS)

Federal funding could trigger NEPA compliance if Rural Utilities Service (RUS) funding was requested for the development and construction of the wind energy facility, usually by a generation cooperative (Table 4-2). The Rural Electrification Act of 1936 authorized the U.S. Department of Agriculture (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 2012). 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 2004). If an RUS loan was requested for the development and construction of the wind energy 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 facilities, including those fueled by renewable energy sources such as wind, generating more than 20 megawatts but not more than 50 megawatts 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 megawatts. 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 (USFS), Site Testing and Feasibility Permit/Construction and Operation Permits

Site testing and feasibility permit and 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 (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 on the USFW web page: 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.

Site testing and feasibility permits are issued for meteorological towers (MET) 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):

1. 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
Table 4-3: USFS Jurisdictions within Wyoming

<table>
<thead>
<tr>
<th>National Forest/Grassland</th>
<th>Ranger District</th>
<th>Special Management Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bighorn National Forest</td>
<td>Tongue District</td>
<td>Cloud Peak Wilderness</td>
</tr>
<tr>
<td></td>
<td>Medicine Wheel/Paintrock District</td>
<td>Bighorn Scenic Byway</td>
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<tr>
<td></td>
<td>Powder River District</td>
<td>Cloud Peak Skyway</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Medicine Wheel Passage</td>
</tr>
<tr>
<td>Bridger-Teton National Forest</td>
<td>Kemmerer Rangers District</td>
<td>Bridger Wilderness</td>
</tr>
<tr>
<td></td>
<td>Big Piney Ranger District</td>
<td>Togwotee Pass, WY Centennial Scenic Byway</td>
</tr>
<tr>
<td></td>
<td>Greys River Ranger District</td>
<td>Granite Creek Wild and Scenic River</td>
</tr>
<tr>
<td></td>
<td>Jackson Ranger District</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Buffalo Ranger District</td>
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<tr>
<td></td>
<td>Pinedale Ranger District</td>
<td></td>
</tr>
<tr>
<td>Medicine Bow National Forest</td>
<td>Brush Creek–Hayden Ranger District</td>
<td>Huston Park Wilderness</td>
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<tr>
<td></td>
<td>Douglas Ranger District</td>
<td>Encampment River Wilderness</td>
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<td></td>
<td>Laramie Ranger District</td>
<td>Platte River Wilderness</td>
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<td></td>
<td></td>
<td>Savage Run Wilderness</td>
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<td></td>
<td></td>
<td>Sarvis Creek Wilderness</td>
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<td></td>
<td></td>
<td>Flat Tops Wilderness</td>
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<td></td>
<td></td>
<td>Mount Zirkel Wilderness</td>
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<td></td>
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<td>Snowy Range RNA</td>
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<tr>
<td></td>
<td></td>
<td>Savage Run Wilderness</td>
</tr>
<tr>
<td>Shoshone National Forest</td>
<td>Clarks Fork Ranger District</td>
<td>North Absaroka Wilderness</td>
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<tr>
<td></td>
<td>Wapiti Ranger District</td>
<td>Absaroka-Beartooth Wilderness</td>
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<tr>
<td></td>
<td>Greybull Ranger District</td>
<td>Popo Agie Wilderness</td>
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<td></td>
<td>Washakie Ranger District</td>
<td>Fitzpatrick Wilderness</td>
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<tr>
<td></td>
<td>Wind River Ranger District</td>
<td>Washakie Wilderness</td>
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<td></td>
<td></td>
<td>Wild and Scenic Clarks Fork River</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tie Hack Memorial</td>
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<tr>
<td></td>
<td></td>
<td>Brooks Lake Falls</td>
</tr>
<tr>
<td>Thunder Basin National Grassland</td>
<td>Brush Creek–Hayden Ranger District</td>
<td>Huston Park Wilderness Area</td>
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<td></td>
<td>Douglas Ranger District</td>
<td>Encampment River Wilderness Area</td>
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<td></td>
<td>Laramie Ranger District</td>
<td>Platte River Wilderness Area</td>
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<td></td>
<td></td>
<td>Savage Run Wilderness Area</td>
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<tr>
<td></td>
<td></td>
<td>Snowy Range Scenic Byway</td>
</tr>
</tbody>
</table>

2. 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 and is typically done so through the analysis of data collected during the tenure of a site testing and feasibility permit (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 under this permit or under a road use permit (FSM 7730.05 & 7731.17), or a combination of the two.

Authorization for both types of permits requires submittal of form FS-2700-4, Special Use Permit. Applicants submitting for a site testing and feasibility permit shall 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 submitting for a construction and operation permit shall submit the following information included as an appendix to the FS-2700-4 form:

1. A study plan that includes survey outcomes from site testing and feasibility studies;
2. A final plan of development;
3. A final site plan;
4. An annual operating plan; and
5. 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, laws, including NEPA. An Environmental Analysis for each type of wind energy permit will be reviewed as part of the application process and should 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, construction of power lines.

Depending on the level of effort required, the agency may assign a processing fee, monitoring fee, and rent fee. A cash or surety bond may also be required. Once the application has been submitted, the agency would determine the appropriate fee and would notify the applicant in writing. The application would take 60 days to process from the time that the application is deemed complete.

A summary of the Permitting Process:

- Pre-Proposal meeting with the USFS;
- Site testing and feasibility permit and Construction and operation permit and use authorization through submittal of FS-2700-4;
- Environmental Analysis; and
- Possible additional NEPA requirements.

Contact Information:

U.S. Forest Service, Rocky Mountain Region
740 Simms Street, Golden, CO 80401
(303) 275-5350
TTD / TTY for the Hearing Impaired (303) 275-5367
4.3.3  **U.S. Natural Resources Conservation Service (NRCS)/Farm Services Agency (FSA)**

The Natural Resources Conservation Service (NRCS)/Farm Services Agency (FSA) 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 (CRP) and the Wetland Reserve Program (WRP). If wind energy projects are located (in any part) on lands managed under these programs, additional coordination with the FSA (for CRP lands) or NRCS (for WRP lands) 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 wind 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.

- Farmland Conversion Impact Rating completed; and
- Contact with individual NRCS and Farm Service Agency field offices.

**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 (USEPA)**

The USEPA Region VIII office in Denver, Colorado, is responsible for enforcement of the Clean Water Act (CWA) for the State of Wyoming. In some specific cases, USEPA has delegated authority for implementation of the CWA to the state.

**Contact Information:**

Mailing address: 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 (CWA), 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 2.1.3.

4.4.2 **Clean Water Act (CWA), Section 402—National Pollutant Discharge Elimination System (NPDES)**

CWA Section 402 NPDES permitting for point source discharges has been delegated to the WDEQ Water Quality Division. The USEPA 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 February 16, 2012, EPA issued the stormwater Construction General Permit (CGP). The 2012 CGP replaces the 2008 CGP (which expired on February 15, 2012), and 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 Wyoming Department of Environmental Quality (WDEQ). Sections 2.1.2, 2.1.3, and 2.1.4 describe these permitting processes.

Facilities with National Pollutant Discharge Elimination System (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.

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

Where USEPA 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 USEPA 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 USEPA, 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.

USEPA’s review of the NOI requires seven days. The permit is considered to be issued on the date it is noticed in the Federal Register and posted on USEPA’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 above, including smaller sites that are part of a larger common plan of development;
- NOI required to obtain permit coverage; and
- Individual Permits may be required.

4.5  U.S. Army Corps of Engineers (USACE)

4.5.1  Section 404—Discharge of Dredged or Fill Material into Navigable Waters of the United States

While the USEPA is responsible for implementing the CWA, the USACE is responsible for permitting of dredge and fill operations in wetlands and other waters of the United States (WoUS) through Section 404 of CWA. The purpose of the Section 404 program is to insure that the physical, biological, and 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 located within portions of three USACE districts. The majority of the state is within the Omaha District. The southwestern corner of the state is in the Sacramento District. The portion of the state in the vicinity of the Teton Range is within the Walla Walla, Washington, District. There is a USACE field office located in Cheyenne, Wyoming. The individual USACE districts would be responsible for regulatory actions within their districts. Section 404 permits, filed separately, would likely be required from all USACE districts where applicable. The USEPA, USFWS, and other state and federal agencies would be given an opportunity to comment on the USACE permit applications.
The USACE authorizes the use of CWA Section 404 permits for any permanent impacts to wetlands and WoUS resulting from the construction and operation of wind energy developments in Wyoming. Permits that may be used could include nationwide permits (NWP) 51 and 12 or an Individual Permit. If a NWP is required, wind project proponents may seek authorization under either NWP as appropriate. There are no Rivers and Harbors Act (RHA) Section 10 “navigable waters” located within the state of Wyoming, so a Section 10 permit would not be necessary.

On February 21, 2012, USACE issued a new nationwide permit (NWP #51) for land-based renewable energy projects and officially re-issued NWP #12 (Utility Lines). NWP #51 authorizes discharges of dredged or fill material into non-tidal WoUS for the construction, expansion, or modification of land-based renewable energy production facilities, including infrastructure to collect wind energy, provided the discharge does not cause the loss of greater than 0.5-acre of non-tidal WoUS (77 FR 10235). NWP #51 does not authorize discharges into non-tidal wetlands adjacent to tidal waters. Changes to NWP #12 resulted in a clarification that access roads are included with other utility line activities that comprise a single and complete project. NWP #51 requires a pre-construction notification (PCN) for all activities, while NWP #12 only requires a PCN above a certain impact threshold. An Individual Permit would be required if impacts to wetlands are projected to exceed 0.5 acre for any discrete wetland or WoUS. The NWP #51, NWP #12 and Individual Permit processes are described below.

Regarding potential impacts to water resources, it is assumed that the proposed wind energy development would be sited and other facilities developed to avoid wetlands and WoUS. The 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 have to be evaluated for potential to impact wetlands and WoUS. This suite of features may result in both temporary and/or permanent impacts and both categories of projected impact would need to be reported to USACE.

Wind energy development projects in Wyoming may use NWP #51 for the development of land-based renewable energy production facilities, including attendant features. According to the NWP #51, attendant facilities may include, but are not limited to roads, parking lots, and stormwater management facilities within the land-based renewable energy facility. Discharges of dredged or fill material into non-tidal WoUS for the construction, expansion, or modification of a wind facility (including attendant facilities) may not result in a loss greater than 0.5 acre, including the loss of no more than 300 linear feet of stream bed. For intermittent and ephemeral stream beds, the limit of 300 linear feet may be waived by the USACE district engineer if it is determined that the activity will result in minimal adverse effects.
A summary of the NWP #51 Permits:

- The project, including the renewable energy production facility and attendant features may result in permanent impacts of 0.5 acre or less.
- The 0.5 acre of total loss includes the loss of no more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds that may be waived by the district engineer.
- NWP #51 Permits do not authorize discharges into non-tidal wetlands adjacent to tidal waters.
- Pre-construction Notification is required for all activities.

Utility lines that are constructed for the purpose of transferring energy from wind generation facilities to a distribution system, regional grid, or other facility are generally considered to be linear projects. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is eligible for treatment as a single and complete project. Those utility lines may be authorized by NWP #12 or another Department of the Army authorization. An NWP #12 may also be used if the only activities associated with the construction, expansion, or modification of wind generation facility are discharges of dredge or fill material into WoUS to construct, maintain, repair, and/or remove utility lines, if those activities meet the terms and conditions of the NWP #12.

A summary of the NWP #12 Permits:

- Each crossing of a waterbody in a linear project may be considered a single and complete project depending on the water source for each waterbody;
- Each single and complete project may result in permanent impacts of 0.5 acre or less; and
- Pre-construction Notification is required if predicted impacts are greater than 0.1 acre.

An Individual Permit under Section 404 of the CWA would be required from USACE if a proposed wind energy development were to result in dredging or placement of fill in any jurisdictional wetland or WoUS that exceeds 0.5 acre. For disturbances expected to be greater than 0.5 acre, the potential impacts on a wetland would be calculated following wetland delineation. Wetland delineation would utilize the methodologies of the USACE Wetland Delineation Manual of 1987 (USACE 1987). USACE has issued three supplemental manuals that need to be reviewed: the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region (USACE 2010a) covers eastern Wyoming; the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2) (USACE 2008) covers the southern, central, and north central portion of the state; and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (USACE 2010b) covers the mountainous portions of the state. Wetland delineations are typically conducted once the project area has been identified and preliminary engineering has been conducted.
A summary of the Individual Permits:

- Permanent impacts that exceed 0.5 acre;
- Wetland delineations required following USACE manuals; and
- Pre-Construction Notification developed.

Under the Individual Permit process, a PCN would be developed and would include the wetland delineation report. A PCN is also required for all activities when using a NWP #51 and when using a NWP #12 if the predicted permanent impacts to wetlands or other WoUS are greater than 0.1 acre. The PCN would describe temporary and/or permanent impacts to wetlands and WoUS and it would request the appropriate permit based on predicted permanent and temporary impacts to wetlands and WoUS.

USACE generally gives EPA and other potentially affected agencies the opportunity to review and comment on Section 404 Individual Permit applications. USEPA is also involved in review when USACE must make formal jurisdictional determinations for WoUS.

Consultation with USACE should be initiated once the site has been selected and preliminary project engineering has been accomplished and the likely temporary and permanent impacts to wetlands and WoUS have been projected. Under the NWP #51, the timeframe is 30 days for initial review of the PCN request, and a potential for a further 45-day review if USACE has remaining questions or data needs. Under the NWP #12, if a PCN is required, the timeframe would be the same as noted under NWP #51. It is expected that the review process would take up to 18 months if an Individual Permit were required.

Individual Permits may require public and agency involvement and are determined on a case-by-case basis. The evaluation process for an Individual Permit is based on guidelines established under Section 404(b)(1) of the CWA and on the "public interest review" procedures. The public interest review involves a broad qualitative evaluation of a project's benefits and detriments. The public interest review is facilitated by the issuance of a 15- to 30-day public notice soliciting comments from the public and resource agencies. A public hearing may be held for highly controversial projects (USACE 2012).

Contact Information:
U.S. Army Corps of Engineers
Wyoming Regulatory Office
2232 Dell Range Blvd, Suite 210, Cheyenne, WY 82009
(307) 772-2300
4.6 National Historic Preservation Act (NHPA)

Section 106 of the National Historic Preservation Act [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 wind 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 2008). 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 2008).

Most often in the case of large-scale undertakings, Section 106 compliance is managed through the use of a Programmatic Agreement (PA). The PA 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 PA is signed by the lead federal agency, the SHPO, the ACHP (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 PA manages Section 106 compliance and is signed by all involved parties; and
- The PA identifies roles and responsibilities for the project and establishes the process for identifying, evaluating, and mitigating effects on historic properties.
4.7 U.S. Fish and Wildlife Service (USFWS)

Early project coordination with the U.S. Fish and Wildlife Service (USFWS) is an important consideration for achieving compliance with the Migratory Bird Treaty Act (16 U.S.C. 703), the Bald and Golden Eagle Protection Act (16 U.S.C. 668), and the Endangered Species Act (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.


4.7.1 Endangered Species Act (ESA)

The Endangered Species Act (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: http://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 (HCP) laying out the proposed actions, determining the effects of those actions on affected fish and wildlife species and their habitats (often including proposed or candidate species), and defining 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: http://www.fws.gov/endangered/esa-library/index.html#hcp.

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

**4.7.2 Migratory Bird Treaty Act (MBTA)**

The Migratory Bird Act (MBTA) protects migratory birds, their parts, eggs and nests from possession, sale, purchase, barter, transport, import, export, and take. The regulatory definition of take is defined in 50 CFR 10.12 as: to pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to hunt, shoot, wound, kill, trap, capture, or collect. The MBTA applies to migratory birds that are identified in 50 C.F.R. § 10.13. Activities that result in the unpermitted take of migratory birds, their eggs, parts, or nests are illegal and prosecutable under the MBTA. Causing abandonment of a nest could constitute violation the statute.

Removal or destruction of any active migratory bird nest (i.e. nests with eggs or young in them) is prohibited. If nest manipulation is proposed, the project proponent should contact the USFWS to determine whether a permit can be issued. No nest manipulation is allowed without a permit. If a permit cannot be issued, the project may need to be modified to ensure take of a migratory bird or eagle, their young, eggs or nest will not occur.

Pre-construction nest surveys are recommended prior to any ground-disturbing activities to avoid impacts to active nests and breeding birds and to avoid “incidental take” under the MBTA. Project developers should consider development of Avian Protection Plans (APP) that include comprehensive pre- and post- construction avian surveys, identification of project elements that are threats to avian species, and project management to avoid and minimize avian threats through (a) project design and layout, (b) conservation measures applied during construction, and (c) conservation measures implemented during operation and adapted to changing situations. The USFWS Wyoming Field Office should be contacted for wind energy development projects prior to construction for further guidance.
4.7.3 **Bald and Golden Eagle Protection Act**

The Bald and Golden Eagle Act (Eagle Act) prohibits the take, possession, sale, purchase, barter, offer to sell, purchase, or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit [16 U.S.C. § 668(a)]. “Take” under this statute is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb” 50 C.F.R. § 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).

The Eagle Act includes limited exceptions to its prohibitions through a permitting process. The USFWS has issued regulations concerning the permit procedures for several Eagle Act exceptions, (50 CFR 22.25, 22.26, and 22.27). The regulations identify the application requirements as well as the issuance criteria that must be met in order for a permit to be issued. Whether or not a permit is sought or issued, the use of Avian Protection Plans (APP), 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. See Appendix B for general information on APP development.

For information on bald and golden eagles, please refer to the USFWS website at: [http://www.fws.gov/migratorybirds/BaldEagle.htm](http://www.fws.gov/migratorybirds/BaldEagle.htm). For information on Eagle Conservation Plan development, see: [http://www.fws.gov/windenergy/eagle_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html).

4.7.3.1 **Eagle Permit Rule**

The U.S. Fish and Wildlife Service published a Final Eagle Permit Rule on September 11, 2009 under the Eagle Act authorizing limited issuance of permits to take Bald and Golden eagles where the take is associated with but not the purpose of an otherwise lawful activity. Since publication of the Eagle Rule, the planned development of wind-power facilities has increased dramatically in the core range of Golden Eagles in the western United States. Golden Eagles, in particular, are vulnerable to collisions with wind turbines. In some areas such collisions are a major source of mortality, and the documented level of take is increasing.

In January 2011, the USFWS released the Draft Eagle Conservation Plan Guidance (Guidance) for wind energy projects The Guidance explains the USFWS approach to issuing programmatic eagle take permits and provides guidance to applicants and biologists for
conservation practices and adaptive management necessary to meet standards required for issuance of these permits and to be in compliance with the Eagle Act.

The Guidance calls on wind turbine developers to consult with the USFWS in a 5-tiered process that includes (1) early landscape-level site assessments; (2) site specific surveys; (3) risk assessment; (4) avoiding, minimizing and mitigating impacts; and (5) post-construction monitoring. For additional information, visit the USFWS website at: http://www.fws.gov/windenergy.

4.7.4 Wind Energy Guidelines

The USFWS in conjunction with the Wind Turbine Guidelines Federal Advisory Committee developed Land-Based Wind Energy Guidelines (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 meet their responsibilities under the ESA, MBTA, and Eagle Act. They replace the interim voluntary guidance published by the USFWS in 2003. Developers are encouraged to consult with the USFWS as early as possible in the development of a wind energy facility.

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

The Guidelines 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.

Briefly, the tiers address:

- 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 Guidelines and all associated materials are available at: www.fws.gov/windenergy.

4.7.5 National Wildlife Refuges

The Secretary of the Interior may permit the use of any area within the National Wildlife Refuge System so 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 Fish and Wildlife Service 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).

Wyoming has seven National Wildlife Refuges:

- National Elk Refuge
- Seedskadee NWR Complex (which includes Seedskadee NWR and Cokeville Meadows NWR)
- Pathfinder NWR
- Mortensen Lake NWR
- Banforth NWR
- Hutton Lake NWR

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

4.8 U.S. Federal Energy Regulatory Commission (FERC) and North American Electric Reliability Corporation (NERC)

It is unlikely that FERC would play a permitting or regulatory role because the responsibility for the construction and maintenance of wind facilities primarily resides with the state public utility commission, as described in Section 2.1.1, the PSC, or with the power purchase arrangements between the wind farm developer and the buyer of the generation, for the determination of rates.

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. ERO 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 (FHWA)

4.9.1 Utility Crossings/Encroachments

Typically, wind 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, respectively. 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, Federal Highway Administration

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 (FHWA 2010).

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 assure that violations are discouraged and 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).
4.10 U.S. Department of Defense (DOD)

The Department of Defense (DOD) manages both lands and airspace with Wyoming. DOD operates two military facilities within Wyoming. These facilities include Francis E. Warren Air Force Base in Cheyenne and the U.S. Army’s Camp Guernsey, located in Guernsey, Wyoming. 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 wind turbines 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 route selected that crossed 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 crossings of DOD lands are identified in close proximity to a proposed wind farm, the developer would work with the appropriate DOD department, DOD Regional Lead, and individual base management to determine the appropriate review process and timeframe.

Similarly, if the wind farm 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 farm project. DOD would make a determination whether the proposed wind farm would conflict with the mission of the facility. If no conflict is identified, the wind farm 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 expect to 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 turbine layout or the transmission line ROW 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 (USDOI)

4.11.1 U.S. Bureau of Indian Affairs (BIA)

The role of BIA in tribal coordination is explained as follows (BIA 2012):

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 566 federally recognized tribes.

If a wind farm is located on or adjacent to tribal lands, the appropriate tribes and BIA should be consulted; permits may be required as determined by the tribal offices and BIA. The issuance of permits and ROW grants may also trigger additional NEPA requirements for all or portions of 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 the wind farm project study area. The list of tribes consulted in the PEIS for a DOE energy corridor on federal land in 11 western states (73 FR 57613-57616/73 FR 72521-72525) was reviewed and USFS and BLM state offices within wind farm project study area were consulted. Many of the federally recognized tribes and tribes with traditional use areas within the state of Wyoming are listed in Table 4-4.

Table 4-4
Federally Recognized Tribes and Tribes With Traditional Use Areas

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

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 the proposed project area. The NEPA lead agency will consult with tribes following the National Historic Preservation Act 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 (ACHP 2011). Section 4.1., 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, Wyoming. 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.
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.

A summary of the permitting process:

- Consultation with NEPA Lead Agency;
- NEPA Lead Agency will need to consult with tribes under NHPA Section 106;
- Additional outreach from the project proponent may be appropriate in some cases; and
- 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 (BLM)

ROWs granted are authorized by Title V of the Federal Land Policy and Management Act (FLPMA) at 43 CFR 2800. A ROW grant application would be required from BLM for wind energy development projects located on lands within BLM jurisdiction. It is the policy of BLM to authorize all ROW applications at the discretion of the authorized officer in the most efficient and economical manner possible. BLM Instruction Memorandum (IM) 2011-061 provides updated guidance on the review of ROW applications and directs BLM offices to identify and prioritize “applications that have the fewest resource conflicts and the greatest likelihood of success in the permitting process.” In conjunction with IM 2011-061, the BLM will require all prospective applicants to schedule at least two pre-application meetings with the BLM before filing an application. The pre-application process provides an opportunity to direct development away from lands with high conflict or sensitive resource values towards low conflict areas such as previously disturbed sites or locations that minimize construction of roads and/or transmission lines. Although only two meeting are required, the BLM authorized officer may determine additional pre-application meetings are necessary before the BLM will accept a ROW application. The purpose of the first pre-application meeting is to identify potential environmental and siting constraints, determine whether lands are available for proposed ROW uses, discuss potential alternative site locations, discuss timeframes for processing proposed applications, and inform applicants of financial obligations in processing an application. The purpose of the second pre-application meeting is to facilitate coordination with federal, state, tribal and local government agencies as required by the regulations (43 CFR 2804.10(b)). Other federal agencies will be invited to participate to ensure issues and concerns are identified and considered early in the process. Based on discussions during the pre-application meetings and recommendations from affected agencies, the BLM authorized officer may recommend that an application not be filed for the proposed project or that a proposed project be modified prior to submission. Pursuant to BLM IM 2011-059, BLM offices
are to incorporate pre-application activities into their NEPA documents and discuss the information during scoping and other public meetings that are part of the NEPA process.

ROW grant applications are filed with the BLM field office having jurisdiction over the lands affected by the application. 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, BLM may request the following information (43 CFR 2884.11(c)):

1. A list of any Federal and state approvals required for the proposal;
2. A description of alternative route(s) and mode(s) you considered when developing the proposal;
3. Copies of, or reference to, all similar applications or grants you have submitted, currently hold, or have held in the past;
4. A statement of the need and economic feasibility of the proposed project;
5. The estimated schedule for constructing, operating, maintaining, and terminating the project (a Plan of Development);
6. A map of the project, showing its proposed location and showing existing facilities adjacent to the proposal;
7. A statement certifying that you are of legal age and authorized to do business in the state(s) where the ROW would be located, and that you have submitted correct information to the best of your knowledge;
8. A statement of the environmental, social, and economic effects of the proposal;
9. A statement of your financial and technical capability to construct, operate, maintain, and terminate the project;
10. Proof that you are a United States citizen; and
11. Any other information BLM considers necessary to process your application.

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 can be issued within 60 calendar days. By day 30, BLM will send a letter to notify the applicant that BLM cannot process in 60 calendar days and provide the estimated date the decision will be issued (43 CFR 2884.21(b)).

The BLM’s goal is to encourage and facilitate environmentally responsible wind energy projects on the public lands consistent with the provisions of the Secretarial Order 3285A1. The screening and prioritization process provides an opportunity to direct development away from high conflict areas or sensitive resources towards low conflict areas. Applications with low resource conflicts are generally considered projects that can be more easily processed by the BLM and typically given higher priority for processing than an application with high resource conflicts which are typically considered more difficult to process.
In accordance with IM 2011-061, the following screening criteria will be used to assist the BLM in prioritizing the processing of wind energy development ROW applications:

**Low Potential for Conflict—timely or expedited authorizations possible:**
- Lands specifically identified for solar or wind energy development in BLM land use plans;
- Previously disturbed sites or areas adjacent to previously disturbed or developed sites;
- Locations that minimize construction of new roads and/or transmission lines;
- Lands adjacent to designated transmission corridors;
- Lands currently designated as Visual Resource Management Class IV;
- Lands identified as suitable for disposal in BLM land use plans.

**Medium Potential for Conflict—projects that have resource conflicts that can potentially be resolved:**
- Designated BLM special management areas, including ACEC areas, that provide for some limited development;
- Lands with wilderness characteristics outside Wilderness and Wilderness Study Areas that have been identified in an updated wilderness characteristics inventory;
- Right-of-way avoidance areas;
- Areas where project development may adversely affect properties listed in the National Register of Historic Places or areas with sensitive cultural and/or historic resource values and other designated areas such as National Natural Landmarks and National Historic Landmarks;
- Areas where project development may adversely affect National Historic and Scenic Trails and National Recreation Trails;
- Sensitive habitat areas, including important eagle use areas, priority sage grouse habitat, riparian areas, or areas of importance for Federal or state sensitive species;
- Lands currently designated as Visual Resource Management Class III;
- Department of Defense operating areas, including areas with significant radar, airspace, or land use conflicts;
- Areas where project development may adversely affect lands acquired for conservation purposes;
- Developed recreation sites and/or facilities;
- Projects with proposed groundwater uses within groundwater basins that have been over appropriated by state water resource agencies.
High Potential for Conflict—more complex projects that will require a greater level of consultation, analysis, and mitigation to resolve issues or may not be feasible to authorize:

- Lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources, and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, National Forest System, and the BLM National Landscape Conservation System), which may be adversely affected by development;
- Lands adjacent to Wild, Scenic and Recreational Rivers and river segments determined eligible/suitable for Wild or Scenic River status if project development may have significant adverse effects on sensitive viewsheds, resources, and values;
- Designated critical habitat for federally threatened and/or endangered species if project development is likely to result in the destruction or adverse modification of that critical habitat;
- Lands currently designated as Visual Resource Management Class I or Class II;
- Right-of-way exclusion areas;
- Lands currently designated as no surface occupancy (NSO) in BLM land use plan prescriptions.

Competitive Interest Language—Wind Energy Policy

The existing ROW regulations (43 CFR 2804.23) provide authority for conducting a competitive process for wind energy ROW applications, but only to resolve competing applications for the same facility or system.

The regulations do not require that the lands be identified or designated specifically for competitive applications but must be consistent with the land use plans for the area and be open and available for wind energy ROW applications. The processing of the application will require compliance with NEPA and other federal laws and regulations, including the requirements of the ROW regulations and BLM wind energy policies.

The BLM issued an Advance Notice of Proposed Rulemaking (ANPR) in December 2011, to solicit public comments and suggestions to assist the BLM in writing a proposed rule to establish a competitive process for offering public lands for solar and wind energy development.

In order to foster the growth and development of the renewable energy sector of the economy and to administer the public lands in a more orderly manner, the BLM believes a rule is necessary to establish an efficient and functional competitive process for issuing ROW leases for solar and wind energy generation that is based upon the current FLPMA (43 U.S.C. 1701 et seq.) authority. The BLM believes that a competitive process is the best alternative to ensure fairness in access to leasing opportunities and to capture fair market value for the use
of public lands, as required under section 504(g) of FLPMA. This rulemaking will establish competitive bidding procedures, define qualifications for applicants, and structure the financial arrangements necessary for the process.

**Bonding**

Pursuant to BLM’s IM 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. A minimum bond in the amount of $10,000 per wind turbine, considering salvage values of turbines and towers, will be required for all wind energy developmental projects on public lands. However, 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.

**Segregation of Lands for Renewable Energy**

FLPMA mandates the BLM to manage the public land for multiple uses which may potentially be in conflict with each other. Two such potentially conflicting uses are renewable energy and mining claims. In some areas where wind and solar energy ROW applications have been filed, mining claims have been filed. These claims, if valid, would have a superior right over wind and solar energy ROW applications, as no rights are established until a ROW grant has been issued. The BLM recently published renewable energy segregation rules to rectify this conflict.

The BLM published regulations in the *Federal Register* (FR) on April 26, 2011 (an Interim Temporary Final Rulemaking (ITFR) and a proposed rulemaking were published on the same date in the FR) allowing for the segregation of lands from operation of the mining and public land laws where renewable energy ROW applications have been filed. These rules are necessary to prevent resource conflicts on lands included in a renewable energy ROW application. The two rules allow the BLM, when necessary for the orderly administration of the public lands, to temporarily segregate lands in a wind or solar energy ROW application from the location of mining claims or other land appropriations. These regulations would only apply to wind and solar energy development ROW applications and by policy, BLM would limit segregations to wind development applications being processed and not wind site monitoring applications. The segregation would be effective for 2 years and may be extended for an additional 2 years if the BLM State Director determines that an extension is necessary for the orderly administration of the public lands.
Interim Temporary Final Rulemaking (ITFR)

- Provides immediate regulatory authority to segregate lands covered by wind or solar energy ROW applications (or areas identified for such applications);
- Allows segregation of public lands from operation of the mining law and public land laws for a period of up to 2 years; does not close to mineral leasing or material sales; cannot be extended (ITFR only effective for 2 years);
- Segregation notice must be signed by an authorized official and be published in the FR. Segregation is effective upon the date of publication;
  - This notice would usually be included in the Notice of Intent (NOI) that initiates the NEPA process for a project;
  - A separate notice would be required for an environmental assessment (EA) level project that does not involve an NOI.

The ITFR changes two areas of 43 CFR Title 43:

- Subpart 2091.3-1, which allows for the segregation of land for renewable energy ROW purposes;
- Subpart 2804.25(e), which provides for segregation of lands while processing a renewable energy ROW application

Segregation will end:

- Upon the authorized officer issuing a decision granting or not authorizing a renewable energy ROW;
- Automatically at the end of the segregation period provided for in the FR;
- Upon publication of FR notice of termination of the segregation.

Proposed Rulemaking

- If issued as a final rule without change the rulemaking would provide the same regulatory authority as the ITFR with one addition;
- After the first two year segregation a State Director may authorize an additional two year segregation of the lands, with appropriate justification, by publishing a notice in the FR;
- While the temporary interim final rule takes effect immediately, the BLM still seeks the public’s input and will consider any comments on the rule until June 26, 2011. The proposed rule will be finalized within 2 years.

Wyoming Renewable Energy Coordination Office

BLM Wyoming’s Renewable Energy Coordination Office (RECO) facilitates the planned, orderly, and responsible development of renewable energy resources and associated transmission facilities. The RECO 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. The RECO also works to ensure that development is conducted in a consistent, environmentally sustainable,
and transparent manner. The RECO Team serves as the knowledge base for renewable energy permitting efforts and the central point of contact for statewide interaction with industry, the public, BLM’s internal organization, and other governmental entities in Wyoming. Consequently, the RECO mission is to support the responsible development of Renewable Energy by working in concert with all BLM offices, other federal agencies, tribal, state, and local governments in Wyoming. A map of current BLM Wyoming developmental projects is included in Appendix A.

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:

1. Land areas for limited, restricted or exclusive use; designations, such as Areas 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;
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 Areas of Critical Environmental Concern (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 FLPMA;
• 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 42 WSAs encompassing 577,504 acres of public land. In its report to Congress in 1992, 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 Wilderness Study Areas within Wyoming.

Table 4-5:
BLM-Managed Wilderness Study Areas

<table>
<thead>
<tr>
<th>High Desert District</th>
<th>High Plains District</th>
<th>Wind River/Bighorn Basin District</th>
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</thead>
<tbody>
<tr>
<td>Adobe Town</td>
<td>Fortification Creek</td>
<td>Alkali Creek</td>
</tr>
<tr>
<td>Alkali Basin/East Sand Dunes</td>
<td>Gardner Mountain</td>
<td>Bobcat Draw Badlands</td>
</tr>
<tr>
<td>Alkali Draw</td>
<td>North Fork</td>
<td>Bighorn Tack-On</td>
</tr>
<tr>
<td>Bennett Mountain</td>
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<td>Cedar Mountain</td>
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<tr>
<td>Buffalo Hump</td>
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<td>Copper Mountain</td>
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<tr>
<td>Devil’s Playground</td>
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<td>Dubois Badlands</td>
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<tr>
<td>Encampment River Canyon</td>
<td></td>
<td>Honeycombs</td>
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<tr>
<td>Ferris Mountain</td>
<td></td>
<td>Lankin Dome</td>
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<tr>
<td>Honeycomb Buttes</td>
<td></td>
<td>McCullough Peaks</td>
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<tr>
<td>Lake Mountain</td>
<td></td>
<td>Medicine Lodge</td>
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<tr>
<td>Oregon Buttes</td>
<td></td>
<td>Miller Spring</td>
</tr>
<tr>
<td>Prospect Mountain</td>
<td></td>
<td>Owl Creek</td>
</tr>
<tr>
<td>Raymond Mountain</td>
<td></td>
<td>Pryor Mountain</td>
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<tr>
<td>Red Creek Badlands</td>
<td></td>
<td>Red Butte</td>
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<tr>
<td>Red Lake</td>
<td></td>
<td>Savage Peak</td>
</tr>
<tr>
<td>Sand Dunes</td>
<td></td>
<td>Sheep Mountain</td>
</tr>
<tr>
<td>Scab Creek</td>
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<td>Split Rock</td>
</tr>
</tbody>
</table>
Table 4-5:
BLM-Managed Wilderness Study Areas

<table>
<thead>
<tr>
<th>High Desert District</th>
<th>High Plains District</th>
<th>Wind River/Bighorn Basin District</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Pinnacles</td>
<td></td>
<td>Sweetwater Canyon</td>
</tr>
<tr>
<td>Twin Buttes</td>
<td></td>
<td>Trapper Creek</td>
</tr>
<tr>
<td>Whitehorse Creek</td>
<td></td>
<td>Whiskey Mountain</td>
</tr>
</tbody>
</table>

Other Special Management Areas include the 3,100-mile-long Continental Divide National Scenic Trail (CDNST) 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 Bureau of Land Management (BLM).

Allowable uses of the BLM-portion of the CDNST 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.

**Wyoming Sage-grouse Management RMP Amendments**: The BLM Wyoming State Office has initiated a planning effort to prepare RMP amendments for the Casper, Green River, Kemmerer, Newcastle, Pinedale, and Rawlins RMPs. The RMP amendments will revise sage-grouse and sagebrush management direction in the existing RMPs to incorporate policy from BLM Wyoming’s Instruction Memorandum (IM) 2010-019. The amendments will address needed changes in the management and conservation of Greater sage-grouse habitats within the six field offices to support sage-grouse population management objectives of the state of Wyoming. Amending the existing RMPs will provide consistency in managing sage-grouse habitat on BLM-administered lands in Wyoming. The RMP decisions to be amended are critical in nature; and by law, all BLM actions, authorizations, and subsequent decisions must be in conformance with the RMP.

The planning area for the RMP amendments includes the area within the boundaries of the BLM Casper, Kemmerer, Newcastle, Pinedale, Rawlins, and Rocks Springs field offices. This area includes approximately 11 million acres of public land surface and 20 million acres of federal mineral estate in Albany, Carbon, Converse, Crook, Fremont, Goshen, Laramie, Lincoln, Natrona, Niobrara, Platte, Sublette, Sweetwater, Uinta, and Weston counties. The decisions resulting from the RMP amendments will only apply to BLM-administered public lands within the planning area.

The overall objective of the Wyoming Sage-grouse Management RMP Amendments planning effort is to provide a collaborative planning process for amending the management decisions of the existing six RMPs. The final approved RMP amendments will identify desired outcomes, identify future conditions to be maintained or achieved, and specify uses or
resource allocations that are allowable, restricted, or prohibited, including any restrictions needed to meet desired outcomes.

**Contact Information:**

<table>
<thead>
<tr>
<th>District</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Desert District</td>
<td>280 Highway 191 North, Rock Springs, WY 82901-3447</td>
<td>(307) 352-0256</td>
</tr>
<tr>
<td></td>
<td>Casper, WY 82604-2968, 2987 Prospector Drive</td>
<td>(307) 261-7600</td>
</tr>
<tr>
<td>Wind River/Bighorn Basin District</td>
<td>101 South 23rd Street, Worland, WY 82401</td>
<td>(307) 347-5100</td>
</tr>
<tr>
<td></td>
<td>Wyoming BLM, State Office, 5353 Yellowstone Road</td>
<td>(307) 775-6256</td>
</tr>
</tbody>
</table>

**4.11.3 U.S. Bureau of Reclamation (BOR)**

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: BOR Jurisdictions**

<table>
<thead>
<tr>
<th>Managed Area</th>
<th>Recreation Management Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcova Reservoir</td>
<td>Natrona County Roads, Bridges, and Parks Department</td>
</tr>
<tr>
<td>Bighorn Canyon</td>
<td>National Park Service</td>
</tr>
<tr>
<td>Boysen Reservoir</td>
<td>Boysen State Park</td>
</tr>
<tr>
<td>Buffalo Bill Reservoir</td>
<td>Buffalo Bill State Park</td>
</tr>
<tr>
<td>Deaver Reservoir</td>
<td>Bureau of Reclamation</td>
</tr>
<tr>
<td>Flaming Gorge</td>
<td>U.S. Forest Service</td>
</tr>
<tr>
<td>Fremont Canyon Recreation Area</td>
<td>Bureau of Reclamation</td>
</tr>
<tr>
<td>Glendo Reservoir</td>
<td>Glendo State Park</td>
</tr>
<tr>
<td>Gray Reef Reservoir</td>
<td>Natrona County Roads, Bridges, and Parks Department</td>
</tr>
<tr>
<td>Guernsey Reservoir</td>
<td>Wyoming State Parks and Historic Sites</td>
</tr>
<tr>
<td>Keyhole Reservoir</td>
<td>Wyoming State Parks and Historic Sites</td>
</tr>
<tr>
<td>Kortes Reservoir / Miracle Mile Area</td>
<td>Bureau of Reclamation</td>
</tr>
<tr>
<td>Lake Cameahwait (Bass Lake)</td>
<td>Wyoming Game and Fish Department</td>
</tr>
<tr>
<td>Newton Lakes</td>
<td>Wyoming Game and Fish Department</td>
</tr>
<tr>
<td>Ocean Lake</td>
<td>Wyoming Game and Fish Department</td>
</tr>
<tr>
<td>Pathfinder Reservoir</td>
<td>Bureau of Land Management and Natrona County Roads, Bridges, and Parks Dept.</td>
</tr>
<tr>
<td>Pilot Butte Reservoir</td>
<td>Bureau of Reclamation</td>
</tr>
<tr>
<td>Ralston Reservoir</td>
<td>Wyoming Game and Fish Department</td>
</tr>
<tr>
<td>Seminoe Reservoir</td>
<td>Wyoming State Parks and Historic Sites</td>
</tr>
</tbody>
</table>

Special Use Permits 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
P.O. Box 1630, Mills, WY 82644
(307) 261-5671
705 Pendell Ave., Casper, WY 82604
(307) 261-5628

4.11.4 U.S. National Park Service (NPS)

Within Wyoming, NPS manages the following National Parks, National Monuments, trails, recreation areas, and historic sites listed in Table 4-7. NPS has overall authority for managing the National Historic Landmarks (NHL) and the National Natural Landmarks (NNL) programs. Direct oversight is vested with the landowner or respective land management agency, but NPS has responsibility for broad programmatic oversight. There are 23 NHLs in Wyoming and 6 NNLs.

Table 4-7:
National Park Service Sites, Wyoming

<table>
<thead>
<tr>
<th>Service</th>
<th>Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Parks</td>
<td>Yellowstone National Park</td>
</tr>
<tr>
<td></td>
<td>Grand Teton National Park</td>
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<tr>
<td></td>
<td>John D. Rockefeller Jr. Memorial Parkway</td>
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<tr>
<td>National Monuments</td>
<td>Fossil Butte National Monument</td>
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<tr>
<td></td>
<td>Devils Tower National Monument</td>
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<td>Trails</td>
<td>Oregon Trail</td>
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<td></td>
<td>Mormon Trail</td>
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<td></td>
<td>California Trail</td>
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<td></td>
<td>Pony Express Trail</td>
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<td>Historic Sites</td>
<td>Fort Laramie National Historic Site</td>
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</tbody>
</table>
Wind energy facilities are not considered an allowed action on lands under the jurisdiction of the NPS. The Organic Act creating NPS states that NPS will "...conserve the scenery and the natural and historic objects and the wild life therein and...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" (16 USC 1, the National Park Service Organic Act). Although federal law gives NPS authority through Directors Order 53 (Special Park Uses) to grant special use permits, such as ROWs for electric poles and lines for transmission and distribution, according to the order the NPS will not issue special park uses permits that:

- Create an unacceptable impact on park resources or values, or
- Are contrary to the purposes for which the park was established, or
- Unreasonably disrupt the atmosphere of peace and tranquility of wilderness, natural, historic, or commemorative locations within the park, or
- Unreasonably interfere with interpretive programs, visitor activities, visitor services, or NPS administrative activities, or
- Substantially interfere with the operation of public facilities or the services of NPS concessioners or contractors, or
- Create an unsafe or unhealthy environment for other visitors or employees, or
- Result in conflict with other existing uses.

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. NPS may assist in determining the appropriate level of compliance, and be part of the process, but would not be the lead agency responsible for meeting compliance requirements under NEPA, Section 106 of NHPA.

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

4.12 U.S. Federal Aviation Administration (FAA)
The FAA is responsible for ensuring the safety of the navigable 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 below.¹

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.
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 8–12 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 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 as 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, 26805 E. 68th Avenue, Suite 224, Denver, CO 80249-6361
(303) 342-1261

4.13 **U.S. Federal Communications Commission (FCC)**

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, very 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 quite 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 turbine structures, transmission lines, and/or substations.

Contact Information:
Federal Communications Commission
445 12th Street Southwest, Washington, DC 20554
(888) 225-5322
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5. Additional Sources of Information for Wind Energy Development

Wind energy production has increased over the past decade as the Nation 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 2–4, additional sources of information are included below.

American Wind Energy Association (AWEA) and National Wind Coordinating Collaborative (NWCC)

The Wind Energy Siting Handbook (February 2008) 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 NWCC. This document along with others from NWCC, are available at http://www.nationalwind.org/publications/wildlifewind.aspx.

Bureau of Land Management (BLM)

Instruction Memorandum No. 2011-059 was issued by the BLM to reiterate and clarify existing BLM NEPA policy to assist BLM offices that are reviewing utility-scale renewable energy right-of-way applications. The IM includes examples and guidance applicable to renewable energy right-of-way applications that supplement information in the BLM’s NEPA Handbook (H-1790-1).


Instruction Memorandum No. 2011-060 was issued by the BLM to provide updated guidance on the due diligence requirement of right-of-way applicants for wind energy development projects on public lands administered by BLM.

Instruction Memorandum No. 2011-061 was issued by the BLM to provide updated guidance on the review of right-of-way applications for energy development projects, including wind, on public lands administered by the BLM. The IM includes screening criteria that will be used to assist the BLM in prioritizing the processing of wind energy development right-of-way applications.


The BLM website contains numerous links to resources that are intended to assist developers with siting and development of their wind energy projects.

- [http://www.blm.gov/wo/st/en/prog/energy/wind_energy.htm](http://www.blm.gov/wo/st/en/prog/energy/wind_energy.htm); University of Wyoming Haub School & Ruckelshaus Institute of Environment and Natural Resources

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


In addition, the Haub School & Ruckelshaus Institute is working on a Wind Energy Mitigation Guide.
U.S. Forest Service (USFS)

Forest Service Special Uses Handbook (FSH 2709.11), Chapter 70—Wind Energy Uses, provides guidance and analyses for evaluating wind energy proposals and applications for issuing wind energy permits. The handbook also includes requirements for wind energy applications. The handbook is available on the Forest Service website at www.fs.fed.us/im/directives/fsh/2709.11/wo_2709.11_70.doc.

U.S. Fish and Wildlife Service (USFWS)

The USFWS Land-Based Wind Energy Guidelines were 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. Developers are encouraged to consult with USFWS as early as possible in the development of a wind energy facility. The guidelines are available on the USFWS website at: http://www.fws.gov/windenergy/docs/WEG_final.pdf.

In conjunction with the guidelines noted above, the Wind Energy Development Information web page on the USFWS website provides additional links to resources and planning tools to be used in assisting wind energy developers. These links can be accessed on line at http://www.fws.gov/windenergy/references.html.

Avian Protection Plan Guidelines

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6. References


7. **Schedule of Permitting/Consultation Sequence**
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**SITE SELECTION**
- Review Wind Resources/MET Data
- Site Suitability Assessment/Critical Issues Analysis
- Preliminary Engineering/Conceptual Layout
- Environmental Surveys
- Site Boundary/Facility Refinement
- Phase I Environmental Site Assessment

**STATE PERMITTING**
- Certification of Public Convenience and Need (PCN)
  - Public notice
  - Public hearing
- Wyoming Industrial Site Plan Division
  - Wyoming Industrial Site Permit Application (Sec. 105)
    - Preliminary Decision
    - Pre-application meeting and application development and submittal
- Transmission Capacity Analysis
- Preliminary Engineering/Conceptual Layout
- Public Agency Meetings
- Environmental Surveys
- Phase I Environmental Site Assessment

**LOCAL PERMITTING**
- County Land Use Permit
  - Prepare/File Application with BOCC
  - Completeness Review
  - Public Hearings
  - Board Decision
  - Other Permits

**FEDERAL PERMITTING - NEPA**
- National Environmental Policy Act (NEPA)
  - Notice of intent published in federal register
  - NEPA public scoping meeting
  - Scoping report
  - Biological Opinion
  - Preliminary Draft EIS (PDEIS)
    - Introduction
    - Project purpose and need
    - Alternatives
    - Affected environment
    - Environmental Impacts
    - Mitigation action plan
    - PDEIS agency comment period
  - Address agency Comments on PDEIS
    - Draft EIS (DEIS)
      - Notice of availability
    - Public hearings and comment period
    - Address public comments on DEIS
    - Final EIS (FEIS)
      - Notice of availability
    - Public comment period
    - Address public comments on FEIS
    - Record of decision
- Clean Water Act CWA
  - Section 401 - Water Quality Certification
  - Section 402 - National Pollutant Discharge Elimination System
  - Section 404 - Discharge to and Fill in Waters of the United States
- National Historic Preservation Act
  - Section 106
- Federal Energy Regulatory Commission (FERC)
  - Register with FERC
- Federal Highway Administration (FHWA)
- US Department of Agriculture (USDA)
  - USFS Special Use Permit
  - USFS Right-of-Way Grant
  - Natural Resource Conservation Service (NRCS)
  - Farmland Protection Policy Act (FPPA)
  - Department of Defense (DOD)
  - Airspace Consultation/ROW Request/Permits
- Federal Communications Commission (FCC)
  - Consult to avoid line-of-sight obstruction

**Schedule of Permitting/Consultation Sequence**
- Year 1: MET Towers may be temporary (i.e. to assess wind resources prior to development) or permanent (i.e. to assist in the operation of wind facilities)
- 1 year to start construction
- 3 years to start construction
- 1 year to build
- MET Towers may be temporary (i.e. to assess wind resources prior to development) or permanent (i.e. to assist in the operation of wind facilities)
- 6 months prior to year 1: Submit Permit
- Year 1:
  - SITE SELECTION:
    - Review Wind Resources/MET Data
    - Site Suitability Assessment/Critical Issues Analysis
    - Preliminary Engineering/Conceptual Layout
    - Environmental Surveys
    - Site Boundary/Facility Refinement
    - Phase I Environmental Site Assessment
- Year 2:
  - SITE SELECTION:
    - Review Wind Resources/MET Data
    - Site Suitability Assessment/Critical Issues Analysis
    - Preliminary Engineering/Conceptual Layout
    - Environmental Surveys
    - Site Boundary/Facility Refinement
    - Phase I Environmental Site Assessment
- Year 3:
  - SITE SELECTION:
    - Review Wind Resources/MET Data
    - Site Suitability Assessment/Critical Issues Analysis
    - Preliminary Engineering/Conceptual Layout
    - Environmental Surveys
    - Site Boundary/Facility Refinement
    - Phase I Environmental Site Assessment
- Year 4:
  - SITE SELECTION:
    - Review Wind Resources/MET Data
    - Site Suitability Assessment/Critical Issues Analysis
    - Preliminary Engineering/Conceptual Layout
    - Environmental Surveys
    - Site Boundary/Facility Refinement
    - Phase I Environmental Site Assessment
- Year 5:
  - SITE SELECTION:
    - Review Wind Resources/MET Data
    - Site Suitability Assessment/Critical Issues Analysis
    - Preliminary Engineering/Conceptual Layout
    - Environmental Surveys
    - Site Boundary/Facility Refinement
    - Phase I Environmental Site Assessment
- Year 6:
  - SITE SELECTION:
    - Review Wind Resources/MET Data
    - Site Suitability Assessment/Critical Issues Analysis
    - Preliminary Engineering/Conceptual Layout
    - Environmental Surveys
    - Site Boundary/Facility Refinement
    - Phase I Environmental Site Assessment

**MET Towers**
MET Towers may be temporary (i.e. to assess wind resources prior to development) or permanent (i.e. to assist in the operation of wind facilities).
8. Permitting Flow Chart
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Appendix A:
Figures
Permitting Wind Energy Projects in Wyoming

Wyoming
Wind Power Resource Estimates

The wind power resource data for this map was produced by TrueWind Solutions using the Mesomap system and historical weather data. It has been validated with available surface data by the National Renewable Energy Laboratory and wind energy meteorological consultants.

Source: http://www.windpoweringamerica.gov/maps_template.asp?stateab=wy
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Source BLM 2012a
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Permitting Wind Energy Projects in Wyoming

Source BLM 2012b
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