

December 21, 2017

To: Environmental Quality Council and Energy and Telecommunication Interim Committee Members

RE: Wind Generation Facilities Bonding and Decommissioning Rule Development Update

Per your request, the Department of Environmental Quality (DEQ) is providing this update and summary on the agency's procedure and timeline to adopt wind bonding and decommissioning rules in accordance with House Bill 216 (HB216). HB216 that passed during the 2017 Legislature requires DEQ to adopt rules prescribing standards and procedures for bonding and decommissioning wind generation facilities that are 25 megawatts or greater in size. HB216 required that DEQ adopt rules by January 1, 2018.

After HB216 was signed by Governor Bullock in May 2017, DEQ established a diverse team of environmental professionals from DEQ's Air, Energy, and Mining Division to oversee the drafting, development, and adoption of the wind bonding and decommissioning rules. During the late spring and summer of 2017, the team met to establish a plan and timeline for reaching out to stakeholders and the public about the rules. DEQ identified stakeholders that included wind generation facility owners, renewable energy advocates, utility companies, local governments, landowner advocacy groups, legislators (including the bill sponsor), and other individuals and organizations that expressed interest in, or testified on, HB216 during the legislature.

In early August, the agency began direct outreach to stakeholders to notify them of the rule adoption process and timeline. DEQ sent out an early, informal draft of the rules to stakeholders for written comments in September. DEQ also introduced the draft rules at the Generation and Transmission Work Group meeting on September 12. On October 5, DEQ held an all-day stakeholder meeting to discuss the draft rules and receive feedback. Stakeholders were also invited to submit comments on this draft through October 12.

The agency found that this informal stakeholder feedback was a valuable step that helped to better inform the wind bonding and decommissioning requirements, and DEQ made several changes to the draft rules based on the comments received during the initial comment period and stakeholder meetings. These changes focused on meeting the legislative intent to remove wind towers at the end of their useful life, honor existing agreements between landowners and wind facility owners, and ensure environmental protection and financial security for future landowners and the citizens of Montana. After the initial stakeholder feedback, DEQ developed a formal proposed rule package that was published and noticed by DEQ and the Secretary of State on November 9, 2017. DEQ held an informational meeting and a public-noticed formal hearing on the proposed rule on November 29 and accepted written comments on the proposed rule through December 7.

The Air, Energy, and Mining Division team is now evaluating the comments received on the proposed rule, making changes, and will formally respond to these comments and publish the final rule by January 1, 2018 in accordance with the timeline established in HB216. The agency's response to comments will be published along with the final rule and posted in the Montana Administrative Register on the Secretary of State's website by January 12, 2018.

Sincerely,

  
Christopher Dorrington

Administrator – Air, Energy, and Mining Division