



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Environmental Protection Secretarys Office TITLE-SERIES: 60-11
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 60-11 Reclamation of Solar and Wind Electricity Generation Facilities

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code 22-32-1 et seq

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

This rule completes rulemaking required by the West Virginia Wind and Solar Energy Facility Reclamation Act

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2022

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2022

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: Yes

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

State Register and WV Gazette

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This set of rules establishes requirements for bonding and decommissioning of wind and solar energy production facilities

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The Legislature required rulemaking

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

\$0

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

\$0

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

\$0

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$0	\$0.00	\$0.00
Personal Services	\$0.00	\$0.00	\$0.00
Current Expenses	\$0.00	\$0.00	\$0.00
Repairs and Alterations	\$0.00	\$0.00	\$0.00
Assets	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00
2. Estimated Total Revenues	\$0.00	\$0.00	\$0.00

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There are zero economic impacts associated with this rulemaking

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 60
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ENVIRONMENTAL REMEDIATION

SERIES 11
RULES FOR RECLAMATION OF SOLAR AND WIND
ELECTRICITY GENERATING FACILITIES

§60-11-1. General.

1.1. Scope - This legislative rule establishes requirements for the decommissioning of solar and wind generation facilities and bonding to guarantee such decommissioning.

1.2. Authority - W. Va. Code §§22-32-1, et seq.

1.3. Filing Date -

1.4. Effective Date -

§60-11-2. Definitions.

Unless the context clearly requires a different meaning, all terms contained in this section are defined by their plain meanings. This section contains definitions for terms that appear through this rule.

2.1. “Abandon” or “abandonment” means generating 10 percent or less of the monthly maximum generation potential, as determined by the facility’s nameplate capacity, each month for 12 consecutive months, unless an application for a new or modified siting certificate is pending before the Public Service Commission. A facility will not be considered abandoned during any period in which the facility is being repowered, subject to any commencement or completion deadlines set by the Public Service Commission.

2.2. “Act” means The West Virginia Wind and Solar Energy Facility Reclamation Act, West Virginia Code § 22-32-1, et seq.

2.3. “Alternative decommissioning agreement” is a legally binding agreement providing for decommissioning of a solar generation facility or a wind generation facility that can be enforced by a qualified independent party and that has been approved by the Department of Environmental Protection or the Public Service Commission.

2.4. “Board” means the Environmental Quality Board as defined in West Virginia Code § 22B-1-7.

2.5. “Bond” means a surety bond or any other arrangement, including but not limited to

letters of credit and escrow accounts, that represent a financial guarantee from the owner of a wind generation facility or solar generation facility to meet decommissioning requirements as established in this Act.

2.6. “Commenced commercial operation” means the first date the solar generation or wind generation facility delivers energy to the distribution or transmission system.

2.7. “Decommission” or “decommissioning” means:

2.7.a. The removal and proper disposal of the solar generation facility and its foundation after the end of the facility's useful life or abandonment; or

2.7.b. The removal and proper disposal of an aboveground wind turbine tower and its foundation after the end of a wind generation facility's useful life or abandonment; and

2.7.c. Except as otherwise provided in §22-32-4 of the Act, the removal and proper disposal with a wind generation or solar generation facility; and

2.7.d. Except as otherwise provided in §22-32-4 of the Act, the reclamation of the surface lands upon which buildings, equipment, and equipment foundations using backfill and compacting of soil in order to return the surface to beneficial use and to prevent adverse hydrologic effects.

2.8. “Decommissioning agreement” is any lease, contract, deed, administrative order, or other legally binding document requiring the owner of a wind generation or solar generation facility to decommission such facility.

2.9. “Department” means the West Virginia Department of Environmental Protection.

2.10. “Facility” means a wind or solar generation facility as defined in West Virginia Code § 22-32-3(f) or (g).

2.11. “Landowner” means a person or persons who hold legal title to the real property where a wind or solar generation facility is located.

2.12. “Owner” means a person who owns a wind generation or solar generation facility operated in West Virginia for the generation of electricity.

2.13. “Person” means any individual, firm, partnership, company, association, corporation, limited liability company, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

2.14. “Qualified independent party” is a public or private entity that, with regard to a wind or solar generation facility, has no ownership interest in such facility. Qualified independent parties include county commissions. Qualified independent parties also include landowners who have no ownership interest in a wind or solar generation facility located on the landowner’s real property.

2.15. “Repowering” means substantial upgrades or changes in solar or wind generation equipment that will extend the operational life of a solar or wind generation facility.

2.16. “Solar generation facility” means an installation or combination of solar panels or plates, including a canopy or array, and other associated property, including appurtenant land, improvements, and personal property, that are normally operated together to capture and convert solar radiation to produce electricity, including flat plate, focusing solar collectors, or photovoltaic solar cells, and that has a nameplate capacity, singularly or in the aggregate, greater than or equal to 1.0 megawatts.

2.17. “Wind generation facility” means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land, improvements, and personal property, that are normally operated together to produce electric power from wind and that have a nameplate capacity, singularly or in the aggregate, greater than or equal to 1.0 megawatts.

§60-11-3. Owner Responsibilities.

3.1. An owner of a solar or wind generation facility shall:

3.1.a. Decommission its generation facility according to this rule and pay for all costs associated with decommissioning;

3.1.b. Commence decommissioning activities within 90 days after abandonment, unless the owner receives department approval of an alternative written plan for decommissioning;

3.1.c. Complete decommissioning within 24 months after abandonment, or according to a reasonable alternative schedule proposed by the owner and approved by the department upon a showing of good cause for the extension.

3.1.d. Notify the department in writing within 30 days after abandonment; and

3.1.e. Notify the department in writing within 30 days after beginning onsite decommissioning activities.

3.2. The owner of a facility that commenced commercial operation on or before July 1, 2021 shall submit in writing the following to the department on or before July 1, 2022. The department may, but is not required to, review these initial decommissioning plans and information for completeness:

3.2.a. The date that the generation facility commenced commercial operation;

3.2.b. A decommissioning plan in accordance with the requirements of these rules, regardless of any bond exemption allowed under these rules;

3.2.c. Identification of each landowner; and

3.2.d. If the landowner or landowners identified pursuant to 3.2.c. are not governmental entities, whether the landowner or landowners have an ownership interest in the facility and, if so, a detailed description of the interests.

3.3. The owner of a facility that commences commercial operation after July 1, 2021 shall submit to the department the information required in 3.2.a. within 12 months after commencing commercial operation. The department may, but is not required to, review these initial submissions for completeness. Within 90 days after receipt, the department shall notify the owner of any deficiencies in the decommissioning plan. Within 90 days after receiving the deficiency notice, the owner shall address all deficiencies and resubmit the decommissioning plan.

3.4. Within 12 months after purchasing a facility, the new owner shall confirm compliance with the decommissioning agreement of the prior owner or submit an alternative decommissioning agreement to the department for approval. The purchaser of a controlling interest in a business entity that owns existing facility assets is not a new owner.

3.5. The department may, at its discretion, inspect solar or wind generation facilities to ensure compliance with this rule. When inspecting a facility, the department representative shall comply with site safety and general access restrictions while at the facility.

3.6. Within one year of commencing commercial operations, or within one year of the effective date of this rule, whichever last occurs, each non-exempt facility shall pay a fee to the Wind and Solar Decommissioning Account of \$100 per megawatt of nameplate generation capacity installed, and \$50 per megawatt of nameplate generation for each subsequent modification of the facility that is approved by the Public Service Commission.

§60-11-4. Decommissioning Agreement.

4.1. Unless exempt, the owner of each solar or wind generation facility must prepare a decommissioning plan. A decommissioning plan must include:

4.1.a. A commitment to remove all aboveground solar panels, wind turbines, and towers;

4.1.b. Plans, including general structural and electrical information, relative to the calculation of the bond for all facilities and all disturbances associated with the facility. The plans must be certified by a professional engineer that that the as-built plans are complete and accurate. The department may allow treatment of all or a portion of the plan as confidential information if the owner demonstrates to the department's satisfaction that the information or plan may be protected pursuant to West Virginia Code § 29B-1-4;

4.1.c. A detailed estimate of the cost of decommissioning the facility with supporting calculations, including:

4.1.c.i. A detailed estimate of the current salvageable value of the facility by an evaluator who is a qualified independent party; and

4.1.c.ii. An estimate of all other expenses related to decommissioning that are the responsibility of the owner.

4.1.d. A description of the manner in which the facility will be decommissioned and a proposed decommissioning schedule, which, except as provided for in 4.2, must include:

4.1.d.i. Removal of all overhead electrical transmission lines and structures, transformers, buildings, and all other ancillary equipment and debris from operation of the facility that is not associated with interconnecting the facility into the electrical grid;

4.1.d.ii. Removal of all underground cables and pipelines to a depth of 24 inches or deeper if necessary for the post operation land use;

4.1.d.iii. Removal of wind turbine and solar foundations and other concrete foundations and slabs;

4.1.d.iv. Reclamation of the facility site to the approximate original surface topography that existed prior to the start of the construction of the facility with grading, topsoil application over the disturbed areas at a depth similar to that in existence prior to the disturbance, reseeding, and revegetation to achieve the same utility as the surrounding area at the time of decommissioning to prevent adverse hydrological effects;

4.1.d.v. Repair and reconstruction from damage to public roads, culverts, and natural drainage ways resulting directly from operation of or decommissioning of the facility; and

4.2. In lieu of the foregoing decommissioning plan requirements, a landowner and the owner of a solar or wind generation facility, and to the extent necessary any local governing body, may reach an alternative decommissioning agreement concerning:

4.2.a. Alternative restoration of buildings, equipment, other associated property (including appurtenant land, improvements, and personal property), cabling, electrical components, roads, or any other associated facilities (instead of removal); and/or

4.2.b. Alternative plans for the reclamation of surface lands.

4.3. The alternative decommissioning agreement may be specific to decommissioning or it may be a more general agreement, such as a deed, lease, contract, or other writing, with specific provisions relating to decommissioning.

4.4. The alternative decommissioning agreement must be provided to the department for review, and the department must approve or deny the alternative plan submission within 90 days of receipt. The department shall require, as a condition of any approval or modification of an

alternative decommissioning agreement, that the parties grant the department and the Public Service Commission authority to enforce compliance with the alternative decommissioning agreement, through legal or administrative proceedings.

4.5. Decommissioning agreements which legally bind exempt parties are not subject to approval or modification by the department but are subject to review and comment by the department.

§60-11-5. Bonding and Decommissioning Exemptions.

5.1. The owner of a solar or wind generation facility is exempt from the decommissioning and bonding requirements of this rule if:

5.1.a. The facility has a nameplate capacity of less than 1.0 megawatts;

5.1.b. The facility is operated by regulated public utility who can successfully demonstrate to the department and the Public Service Commission an acceptable showing of financial integrity and long-term viability; or

5.1.c. The facility:

5.1.c.i. Is legally bound by a decommissioning agreement, based upon a qualified independent party and executed before July 9, 2021; or

5.1.c.ii. Was granted a siting certificate, modification waiver, order, or other authorization to construct by the Public Service Commission, conditioned upon the execution of such agreement before July 9, 2021.

5.2. A facility remains exempt unless or until the facility, pursuant to West Virginia Code § 22-32-4(i)(3), is:

5.2.a. Found to be in breach of such agreement, or such agreement is found to be unenforceable;

5.2.b. Sold or transferred to a party or parties not bound under such agreement; or

5.2.c. Substantially expands its facility by 50% or more in total disturbed acreage.

5.3. Appendix A sets forth an inclusive, but not exclusive, list of solar and wind generation facilities that were granted a siting certificate or other authorization to construct by the Public Service Commission, conditioned on compliance with a legally binding decommissioning agreement that was executed before July 9, 2021. Such facilities are therefore exempt from the requirements of this rule, except that they are required to provide decommissioning agreements to the department.

5.4. Facilities that are exempt from the bonding and decommissioning requirements of the

Act must provide the department with a properly executed and legally binding decommissioning agreement, with all attachments, schedules, and addendums.

§60-11-6. Determination of Bond Amount.

6.1 Unless exempt, each solar and wind generation facility shall provide a decommissioning bond conditioned on the faithful decommissioning of the facility. The department shall set the bond amount at the estimated amount for the department to perform the decommissioning work required of an owner.

6.2. The bond amount must be based on:

6.2.a. Estimated costs submitted by the owner in accordance with these rules with such costs estimated by using current machinery production handbooks and publications or other documented or substantiated costs estimates acceptable to the department;

6.2.b. Estimated costs to the department that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the facility after its abandonment by the owner to perform decommissioning and reclamation work;

6.2.c. Estimated costs to the department that may arise from management and maintenance of the facility upon owner insolvency or abandonment, until full bond liquidation can be effected; and

6.2.d. Other cost information as may be required by or available to the department.

6.3. The value of the bond shall be based upon the total disturbed acreage of land upon which the facility is operated, less salvage value, and shall not exceed the total projected future cost of decommissioning, less salvage value. In determining the amount of bond required, the department shall consult with the facility owner and provide the owner with a preliminary bond determination.

6.4. The line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings.

6.5. The department shall notify the owner of the facility by certified mail of any denial, approval, or modification to the decommissioning plan or the bond amount. Any person adversely affected by a decision of the department to approve or deny a decommissioning plan; to establish the amount of a decommissioning bond; to approve or deny an application to modify a decommissioning plan or bond; to grant or release a decommissioning bond, or to forfeit a decommissioning bond may appeal that decision to the Environmental Quality Board within 30 days after receipt of written notice of the department's action, and thereafter to the appropriate court in accordance with the provisions of West Virginia Code § 22B-1-1, *et seq.*

§60-11-7. Bonding Deadline.

7.1. Except as provided in 6.3 and 6.5 of these rules, an owner who is required to provide a bond for decommissioning shall submit a bond payable to the State of West Virginia in a form acceptable to the department and the Attorney General of the State of West Virginia and in a sum determined by the department pursuant to these rules, conditioned on the faithful decommissioning of the facility. The owner shall submit the bond:

7.1.a. On or before July 1, 2022 if the solar or wind generation facility commenced commercial operation on or before July 1, 2021; or

7.1.b Within one year of the date on which the solar or wind generation facility first produces electricity for consumer or industrial use, if the solar or wind generation facility commenced commercial operation after July 1, 2021.

§60-11-8. Penalties.

8.1. If the owner of the solar or wind generation facility fails to submit a decommissioning bond acceptable to the department or the properly executed and legally binding decommissioning agreement within the timeframe required by these rules, the department shall provide notice to the facility owner. If, after 30 days, the owner has not submitted a decommissioning bond or such agreement, the department may assess an administrative penalty of not more than \$10,000.00 for the first day of violation and may assess an additional administrative penalty of not more than \$500.00 for each day the failure to submit the bond continues.

8.2. The owner of the solar or wind generation facility may appeal a penalty assessment to the Environmental Quality Board within 30 after receipt of written notice of the penalty.

§60-11-9. Replacement of Bond.

9.1. If the owner transfers ownership of the facility to a successor owner, the department shall release the bond posted by the owner in accordance with this rule within 90 days. The successor owner shall, within 90 days after transfer, provide a bond that meets the requirements of these rules.

9.2. The owner must receive approval from the department prior to replacing any bond. The department shall approve a replacement bond within 90 days of receipt of the request for replacement if it meets the requirements of these rules.

§60-11-10. Adjustment of Bond Amount.

10.1. Once every five years, an owner may request a reduction of the required bond amount by submitting to the department an amended decommissioning plan. If the department finds that the amended decommissioning plan reduces the estimated cost to the department to complete decommissioning, the department may approve reducing the bond. Prior to denying the request in whole or in part, the department shall consult with the owner. The department shall issue its

decision within 90 days of receipt of the facility owner's request.

10.2. The department shall review each nonexempt decommissioning plan and bond amount every five years after a facility is bonded, or when a new owner submits a revised decommissioning plan. The department may increase the amount of the bond if the facility has expanded or the cost to decommission the facility has otherwise increased. The department shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. If the department determines that the bond amount must be increased, it shall mail to the owner a written justification for the increase. The owner shall increase the bond amount within 90 days after the date the written justification was mailed.

10.3. The owner of the solar or wind generation facility may appeal a determination relating to bond adjustments to the Environmental Quality Board within 30 after receipt of written notice of the agency approval or denial of the request for bond adjustment.

§60-11-11. Form of Bond.

11.1. The owner shall submit either a surety bond, collateral bond, letter of credit, or certificate of deposit in a form acceptable to the department and to the Attorney General of the State of West Virginia by the deadline established by these rules.

11.2. Liability under any bond, including separate bond increments or bonds applicable to a single facility, extends to the owner's entire facility.

§60-11-12. Surety Bonds.

12.1. An owner may satisfy the bonding requirements of these rules by submitting a surety bond that:

12.1.a. Is in an amount that does not exceed 10 percent of the surety's capital surplus account as shown on a balance sheet certified by a certified public accountant and submitted to the department;

12.1.b. Is in an amount that does not exceed three times the surety's maximum single obligation;

12.1.c. Is issued by a surety authorized by the Insurance Commissioner of the State of West Virginia and which is listed in the United States Department of the Treasury Circular 570;

12.1.d. Has a power of attorney attached that states that the surety has authorized the person issuing the bond to bind it to the bond's terms; and

12.1.e. Provides a requirement and a mechanism for the surety to give prompt notice to the department and the owner of:

12.1.e.i. Any action alleging bankruptcy or insolvency of the surety or a

violation that would result in suspension or revocation of the surety's authorization;

12.1.e.ii. Cancellation by the owner; and

12.1.e.iii. Cancellation or pending cancellation by the surety.

12.2. Upon a written determination by the department that a surety is unable to comply with the terms of the bond, the owner is deemed to be without bond. The owner shall replace the bond within 90 days after the written determination is mailed by the department.

§60-11-13. Letters of Credit.

13.1. An owner may satisfy the bonding requirements of these rules by submitting a letter of credit that:

13.1.a. Is issued by a bank organized and authorized to do business in the United States;

13.1.b. Is irrevocable prior to being released by the department;

13.1.c. Is payable to the department in part or in full upon demand and receipt from the department of a notice of forfeiture issued in accordance with these rules;

13.1.d. Provides, upon expiration, if the department has not notified the bank in writing that a substitute bond has been provided or is not required, the bank shall immediately pay the department the full amount of the letter of credit less any previous drafts;

13.1.e. Is not for an amount in excess of 10 percent of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant and submitted to the department with the letter of credit;

13.1.f. Is for an amount that does not exceed three times the bank's maximum single obligation; and

13.1.g. Is automatically renewable annually on the letter of credit anniversary date.

13.2. The department shall review a bank's qualifications annually before a letter of credit is renewed. If the department determines that a bank has become unable to fulfill its obligations under the letter of credit, the department shall, in writing, notify the owner and specify a reasonable period, not to exceed 90 days, in which the owner shall replace the bond.

§60-11-14. Certificates of Deposit.

14.1. An owner may satisfy the bonding requirements of these rules by submitting a certificate of deposit that:

14.1.a. Is issued by a single institution in a denomination not in excess of \$250,000.00, or the maximum insurance amount as determined by the Federal Deposit Insurance Corporation, whichever is less. The department may not accept a combination of certificates of deposit from an owner in excess of that limit from a single institution. If the issuing institution uses a system in which the issuing institution serves as custodian for the payees of multiple certificates of deposit and arranges for one or more additional institutions to issue certificates of deposit not in excess of each institution's Federal Deposit Insurance Corporation limit, and submits those certificates of deposit to the department with proof determined to be acceptable to the department that the issued certificates of deposit are insured by the Federal Deposit Insurance Corporation, the, the department may accept those certificates of deposit;

14.1.b. Is automatically renewable annually on the certificate of deposit's anniversary date;

14.1.c. In combination with all certificates of deposit, is in an amount sufficient to ensure that funds in the amount of the bond required by these rules will be paid to the department by the issuing bank if the department forfeits the bond and liquidates the certificates of deposit before maturity;

14.1.d. Is payable to the owner and the department, and the owner has assigned its interest in the certificate of deposit, both in writing and in the records of the bank issuing the certificate of deposit;

14.1.e. Expressly prohibits the owner from withdrawing funds until the department has released the certificate of deposit assignment; and

14.1.f. Waives all rights of the issuer to a setoff or lien against the certificate of deposit.

§60-11-15. Forfeiture of Bond.

15.1. If an owner fails to decommission a facility in either the manner or schedule set forth in the decommissioning plan under these rules and did not commence action to rectify deficiencies within 90 days after the department's notification was mailed, the department may cause the bond to be forfeited for the entire facility. The department shall notify the owner and the surety or bank by certified mail of the forfeiture.

15.2. The notification must include the reasons for the forfeiture, the amount to be forfeited, the time within which corrective action to avoid forfeiture must begin, and the right to appeal the decision to the Board.

§60-11-16. Release of Bond; Use of Bond by Department.

16.1. The department shall release a bond if the department is satisfied that an owner has completed decommissioning of a facility in accordance with the decommissioning plan or as otherwise agreed to by the department in consultation with the landowner.

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16.2. At any time, an owner or any person authorized to act on behalf of the owner may make a written request to the department for release of all or a portion of a bond, and the department shall reply with a determination within 90 days unless the conditions do not permit access to the facility within the 90 days period. The owner shall allow the department to inspect the facility to verify the adequacy of decommissioning for bond release.

16.3. Upon bond forfeiture for an abandoned facility, the department, with staff, equipment, and material under its control or by contract with others, may take any necessary action to secure and decommission the facility.

16.4. Before decommissioning is considered complete, each wind generation facility owner shall record a map with the appropriate county clerk's office showing the location of any remaining wind turbine foundation and its depth. The owner shall submit a copy of the map showing that it was stamped by the appropriate county clerk, and associated documents, to the department.

APPENDIX A

1. Case No. 01-1664-E-CN Mt. Storm Wind Force, LLC (See Public Service Commission Order August 29, 2002); Case No. 16-1117-E-CS-PC Mt. Storm Wind Force, LLC (See Public Service Commission Order May 3, 2017); Case No. 22-0079-E-CS-PC Catamount Wind LLC (See Public Service Commission Order March 30, 2022) (now known as Catamount Wind LLC).
2. Case No. 02-1189-E-CN Nedpower Mount Storm LLC (See Public Service Commission Orders April 2, 2003 and July 11, 2007).
3. Case No. 05-1590-E-CS Beech Ridge Energy LLC (See Public Service Commission Order August 28, 2006).
4. Case No. 08-1109-E-CS AES Laurel Mountain, LLC (See Public Service Commission Order November 26, 2008).
5. Case No. 08-2105-E-CS AES New Creek, LLC (See Public Service Commission Order September 30, 2009).
6. Case No. 09-0360-E-CS Pinnacle Wind Force, LLC (See Public Service Commission Order January 11, 2010); Case No. 19-1154-E-CS-PW Black Rock Wind Force, LLC (See Public Service Commission Order February 7, 2020).
7. Case No. 12-1196-E-CS Beech Ridge Energy II LLC (See Public Service Commission Order June 19, 2013).
8. Case No. 19-0483-E-CS Black Rock Wind Force, LLC (See Public Service Commission Order November 19, 2019); Case No. 20-0787-E-CS-PW Black Rock Wind Force, LLC (See Public Service Commission Order December 17, 2020).
9. Case No. 19-0890-E-CS-CN Longview Power II, LLC (See Public Service Commission Order April 3, 2020).
10. Case No. 20-0845-E-SCS-PW Wild Hill Solar, LLC (See Public Service Commission Order February 11, 2021).
11. Case No. 00-1209-E-CN Backbone Mountain Windpower, LLC (See Public Service Commission Order December 28, 2000).

APPENDIX B

Examples of Decommissioning Agreements may be obtained by contacting the West Virginia Department of Environmental Protection's Division of Land Restoration in Charleston, West Virginia.