WEST VIRGINIA CODE: §22-32-8

§22-32-8. Decommissioning agreements.

Decommissioning agreements entered by wind and solar facilities not exempted from this Act shall address, at a minimum:

(a) The term and scope of the agreement, including access and easement rights for decommissioning activities thereunder;

(b) The establishment of a bond or fund for decommissioning activities; provisions governing the same; initial balances; and whether an escrow agreement is required for the fund;

(c) The requirement to review, amend, and restate the decommissioning agreement every five years and adjust the required balance of the bond or fund for decommissioning activities;

(d) The Department of Environmental Protection's right to review, modify, and approve the independent third-party's plan: *Provided*, that the Department of Environmental Protection's approval of an qualified independent third-party evaluation shall not be unreasonably withheld;

(e) Industry standards or citations to the same to be met for decommissioning wind and solar facilities, including a statement of the restoration goal and the treatment of abandoned equipment on owned or leased property;

(f) The process for making claims and disbursements under the agreement's decommissioning fund;

(g) The termination of the decommissioning agreement following the completion of decommissioning activities;

(h) Required notices;

(i) The assignment of rights and obligations under the agreement; and

(j) Force majeure provisions excusing performance or delays in performance due to fire, earthquake, flood, tornado, disasters, or act of God, terrorism, pandemic, change of law, or any other cause beyond a party's control.

The secretary of the Department of Environmental Protection may propose rules for legislative approval in accordance with the provisions of chapter 29A of this code establishing a model decommissioning agreement for wind and solar facilities governed under this act.

WV Legislature