

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.