

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1034

To provide for local control for the siting of windmills.

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IN THE SENATE OF THE UNITED STATES

MAY 13, 2005

Mr. ALEXANDER (for himself and Mr. WARNER) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

To provide for local control for the siting of windmills.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Environmentally Re-  
5       sponsible Windpower Act of 2005”.

6       **SEC. 2. LOCAL CONTROL FOR SITING OF WINDMILLS.**

7       (a) LOCAL CONTROL.—Prior to the Federal Energy  
8       Regulatory Commission issuing to any onshore and above-  
9       water wind turbine project its Exempt-Wholesale Gener-  
10      ator Status, Market-Based Rate Authority, or Qualified  
11      Facility rate schedule, the wind project shall file with the

1 Federal Energy Regulatory Commission its Local Ap-  
2 proval Authorization.

3 (b) LOCAL APPROVAL AUTHORIZATION.—

4 (1) In this section, the term “Local Authori-  
5 ties” means the governing body, and the senior execu-  
6 tive of the body, at the lowest level of government  
7 that possesses authority under State law to carry  
8 out this Act.

9 (2) Local Approval Authorization is a resolution  
10 from the local governing body and local senior execu-  
11 tive (collectively, the “Local Authorities”) approving  
12 or denying the siting of such wind project.

13 (3) Such resolution approving or denying the  
14 project shall be produced by the Local Authorities  
15 within 120 days of the filing of the Market-Based  
16 Rate application or Federal Energy Regulatory  
17 Commission Form number 556 (or a successor  
18 form) at the Federal Energy Regulatory Commis-  
19 sion.

20 (4) If such resolution is not issued by the local  
21 authorities within 120 days of the filing of the Mar-  
22 ket-Based Rate application or Federal Energy Regu-  
23 latory Commission Form number 556 (or a suc-  
24 cessor form) at the Federal Energy Regulatory Com-

1 mission, then such project is deemed to have ob-  
2 tained its Local Approval Authorization.

3 (5) Applicant shall notify in writing the local  
4 authorities on the day of the filing of such Market-  
5 Based Rate application or Federal Energy Regu-  
6 latory Commission Form number 556 (or a suc-  
7 cessor form) at the Federal Energy Regulatory Com-  
8 mission. Evidence of such notification shall be sub-  
9 mitted to the Federal Energy Regulatory Commis-  
10 sion.

11 (6) The Federal Energy Regulatory Commis-  
12 sion shall notify in writing the local authorities with-  
13 in 10 days of the filing of such Market-Based Rate  
14 application or Federal Energy Regulatory Commis-  
15 sion Form number 556 (or a successor form) at the  
16 Federal Energy Regulatory Commission.

17 (7) If the Local Authorities deny the siting of  
18 a wind project, the Federal Energy Regulatory Com-  
19 mission shall not issue to the project Market-Based  
20 Rate Authority, Exempt Wholesaler Generator Sta-  
21 tus, or Qualified Facility rate schedule.

22 (c) DETERMINATION OF NEIGHBORING STATES.—

23 (1) In this subsection, the term “viewshed”  
24 means the area located within 20 miles of the  
25 boundary of a State.

1           (2) If an offshore, above-water windmill project  
2 under this section is located within the viewshed of  
3 an adjacent State, the adjacent State may determine  
4 that the project is inconsistent with the development  
5 plan of the State under the Coastal Zone Manage-  
6 ment Act of 1972 (16 U.S.C. 1451 et seq.).

7           (3) If a State makes a determination under  
8 paragraph (2), the affected windmill project shall  
9 terminate.

10 (d) HIGHLY SCENIC AREA AND FEDERAL LAND.—

11           (1) A Highly Scenic Area is—

12                   (A) an offshore area;

13                   (B) any area listed as an official United  
14 Nations Educational, Scientific, and Cultural  
15 Organization World Heritage Site, as supported  
16 by the Department of the Interior, the National  
17 Park Service, and the International Council on  
18 Monuments and Sites;

19                   (C) any area nominated by the Depart-  
20 ment of the Interior and the Federal Inter-  
21 agency Panel for World Heritage to become an  
22 official United Nations Educational, Scientific,  
23 and Cultural Organization World Heritage Site;

24           or

1 (D) any Armed Forces base located in the  
2 United States.

3 (2) A Qualified Wind Project is any above-  
4 water wind-turbine project located in a Highly Sce-  
5 nic Area or within 20 miles of the boundaries of an  
6 area described in subparagraph (B), (C), or (D) of  
7 paragraph (1).

8 (3) Prior to the Federal Energy Regulatory  
9 Commission issuing to a Qualified Wind Project its  
10 Exempt-Wholesale Generator Status, Market-Based  
11 Rate Authority, or Qualified Facility rate schedule,  
12 an environmental impact statement shall be con-  
13 ducted and completed by the lead agency in accord-  
14 ance with the National Environmental Policy Act of  
15 1969 (42 U.S.C. 4321 et seq.). If no lead agency is  
16 designated, the lead agency shall be the Department  
17 of the Interior.

18 (4) The environmental impact statement deter-  
19 mination shall be issued within 12 months of the  
20 date of application.

21 (5) Such environmental impact statement re-  
22 view shall include a cumulative impacts analysis ad-  
23 dressing visual impacts and avian mortality analysis  
24 of a Qualified Wind Project.

1           (6) A Qualified Wind Project shall not be eligi-  
2           ble for any Federal tax credit.

3           (e) EFFECTIVE DATE.—

4           (1) This section shall expire 7 years after the  
5           date of enactment of this Act.

6           (2) Nothing in this section shall prevent or dis-  
7           courage environmental review of any wind projects  
8           or any Qualified Wind Project on a State or local  
9           level.

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