

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

# S. 1208

To provide for local control for the siting of windmills.

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IN THE SENATE OF THE UNITED STATES

JUNE 9, 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 NOTIFICATION.—Prior to the Federal En-  
8       ergy Regulatory Commission issuing to any wind turbine  
9       project its Exempt-Wholesale Generator Status, Market-  
10      Based Rate Authority, or Qualified Facility rate schedule,

1 the wind project shall complete its Local Notification  
2 Process.

3 (b) LOCAL NOTIFICATION PROCESS.—

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) Applicant shall notify in writing the Local  
10 Authorities on the day of the filing of such Market-  
11 Based Rate application or Federal Energy Regu-  
12 latory Commission Form number 556 (or a suc-  
13 cessor form) at the Federal Energy Regulatory Com-  
14 mission. Evidence of such notification shall be sub-  
15 mitted to the Federal Energy Regulatory Commis-  
16 sion.

17 (3) The Federal Energy Regulatory Commis-  
18 sion shall notify in writing the Local Authorities  
19 within 10 days of the filing of such Market-Based  
20 Rate application or Federal Energy Regulatory  
21 Commission Form number 556 (or a successor  
22 form) at the Federal Energy Regulatory Commis-  
23 sion.

24 (4) The Federal Energy Regulatory Commis-  
25 sion shall not issue to the project Market-Based

1 Rate Authority, Exempt Wholesaler Generator Sta-  
 2 tus, or Qualified Facility rate schedule, until 180  
 3 days after the date on which the Federal Energy  
 4 Regulatory Commission notifies the Local Authori-  
 5 ties under paragraph (3).

6 (c) HIGHLY SCENIC AREA AND FEDERAL LAND.—

7 (1) A Highly Scenic Area is—

8 (A) any area listed as an official United  
 9 Nations Educational, Scientific, and Cultural  
 10 Organization World Heritage Site, as supported  
 11 by the Department of the Interior, the National  
 12 Park Service, and the International Council on  
 13 Monuments and Sites;

14 (B) land designated as a National Park;

15 (C) a National Lakeshore;

16 (D) a National Seashore;

17 (E) a National Wildlife Refuge that is ad-  
 18 jacent to an ocean; or

19 (F) a National Military Park.

20 (2) A Qualified Wind Project is any wind-tur-  
 21 bine project located—

22 (A)(i) in a Highly Scenic Area; or

23 (ii) within 20 miles of the boundaries of an  
 24 area described in subparagraph (A), (B), (C),  
 25 (D), or (F) of paragraph (1); or

1 (B) within 20 miles off the coast of a Na-  
2 tional Wildlife Refuge that is adjacent to an  
3 ocean.

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

14 (4) The environmental impact statement deter-  
15 mination shall be issued within 12 months of the  
16 date of application.

17 (5) Such environmental impact statement re-  
18 view shall include a cumulative impacts analysis ad-  
19 dressing visual impacts and avian mortality analysis  
20 of a Qualified Wind Project.

21 (6) A Qualified Wind Project shall not be eligi-  
22 ble for any Federal tax subsidy.

23 (d) EFFECTIVE DATE.—

24 (1) This section shall expire 10 years after the  
25 date of enactment of this Act.

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

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