

Summary of Wind Siting Council Member Comments on Draft Rules

(Received by 5pm April 15, 2010)

Scope of the Rules

- Scope of the rules (not contemplating very large turbines, offshore wind)
- Commission ability to establish different requirements case by case
- What is the size of a small turbine, project that should be treated differently?

Pre-development activity

- What is the appropriate notification radius?
- What is the appropriate form/content, time for notification?
- What is the appropriate amount of effort to ascertain existing land uses?
- DNR, DOT, Historical Society consultation– what happens if recommendations are not followed?

Political Subdivision Land Use Planning

- Land use planning prohibition on excluding wind development – issue with Smart Growth planning

Natural Resources

- DNR consultation requirement – suggestion to add additional required consultation
- Suggestion to add more detail regarding natural resources information provided to local government (permitted provisions section)

Stray Voltage

- What is stray voltage testing, who conducts tests and who pays?

Emergencies

- Air ambulance service planning – what planning/accommodations are sufficient?
- Emergency services – why confidential plans?
- Political subdivision notification of an emergency – when?
- Training of political subdivision re: emergency at no cost?

Wind leases/easements

- State approved lease forms?
- Ability to record memorandum of lease/easement?
- No confidentiality of wind lease or easement?
- Establish licensing requirement for people discussing leases with landowners?
- Landowner right of rescission of lease for X days after signing?

Signal Interference

- Wi-fi internet interference?
- Signal interference – what is required (no interference v. avoid to extent practicable)
- Emergency communication towers – are these incorporated under other terms?

Shadow Flicker

- What constitutes mitigation of shadow flicker?
- Shadow flicker on land (not a building)

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Siting/Setbacks

- Participating property which is not a primary residence v. one that is primary residence
- Seasonal homes, “second residences”
- What constitutes an occupied building?
- Suggested additional setbacks from: property lines, other types of buildings, potential future home sites, additional natural resource features/areas (parks, trails, etc)
- “Rural nature” of possible wind project sites
- Ability of landowners to build on their property regardless of established setbacks for turbines
- Private use airport – allow requirements or not?
- Individual hardships in siting – enforcement mechanism?

Noise

- Noise limits: dbA v. dbC
- When does noise measurement occur?
- Nighttime hour noise limit
- Response time requirement for eliminating a steady pure tone?
- Standards for noise/sound testing
- Who conducts noise testing, who pays for noise testing?
- Noise measurements – suggestion to measure at property lines, not buildings
- What is the Noise Measurement Protocol?
- “Sensitive receptor area”

Mitigation/Complaint Resolution

- Buy-out option for nearby nonparticipating landowners?
- How to describe appropriate compensation for aerial spraying impacts
- Clarify/establish process for complaint resolution procedure
- Concern about landowner liability for additional taxes assessed due to mitigation efforts
- Standards for pre- and post-construction reviews of roads

Compensation for Nonparticipants

- What happens if people decline an offer of payment?

Decommissioning

- Why not remove underground improvements?
- What is the appropriate level of required proof of ability to comply with requirements?

Application Requirements

- Political subdivision ability to require drawings, engineering specs, etc. to be filed
- Process/requirements for charging fees, requiring reimbursement for application review costs
- Suggestion to not include air traffic information because is under FAA jurisdiction

Summary of Provisions with Only Minor or No Council Member Comment

(As of 5pm April 15, 2010)

128.11 Encumbrances on real property.

- (1)(a) Recording leases/easements
Except possibly also allow recording of memorandum of lease/easement?
- (2) Lease, easement requirements
Except option to terminate if not operational for how long?
Except possibly allow right of rescission?
- (3) Lease, easement prohibitions
Except re: confidentiality

128.13 Siting criteria.

- (1)(b) Measuring setbacks
- (2)(c) Public airports
- (2)(d) Air ambulance treated as public airport
- (3) Line of site communication standard
Except maybe add emergency communication if necessary?

128.15 Shadow flicker.

- (3)(a) Shadow flicker mitigation required; not required to document if modeling shows eligible
- (3)(b) Ok to mitigate when not required

128.18 Construction and operation.

- (1) Physical characteristics
- (2) Electrical standards
- (3) Construction, maintenance standards
- (4) Emergency procedures (most)
Except for comments on a few provisions

128.19 Decommissioning.

- (1)(a) Requirement to decommission
- (1)(e) Deferral of decommissioning requirement
- (2) Decommissioning review by political subdivision
- (4) Site restoration
- (5)(a) Filing re: completion of decommissioning

128.30 Application and notice requirements.

- (1) Contents of application
- (2) Accurate application
- (3) Small applications different
- (4) Duplicate copies
- (6) Public participation
- (7) Joint application review process

128.31 Application completeness.

- (1) Incomplete applications
- (2) Additional information

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128.32 Political subdivision review of a wind energy system.

- (1) Approval
- (3) Written decision
- (4) Change of operator/owner

128.34 Record of decision.

- (1) Recordkeeping
- (2) Record contents
Except question re: public hearing minutes
- (3) Post construction filing

128.35 Modifications to an approved wind energy system.

- (1) Material changes
- (2) Review limited

128.36 Monitoring and mitigation.

- (1) Monitoring committee
- (2) Duties
Except possibly add detail about process for enforcement

128.40 Detailed application requirements.

Detailed application requirements

128.41 Commission review.

Commission review