

- 1 (a) A person involved in acquiring the necessary rights, permits and approvals, or otherwise
2 planning for the construction and operation of a wind energy system, including agents,
3 contractors, successors, or assigns, regardless of whether the person will own or operate the wind
4 energy system.
- 5 (b) An owner.
- 6 **(4)** “Decommissioning” means removal of all of the following:
- 7 (a) The above ground portion of a wind energy system, including wind turbines and related
8 facilities, except for access roads if removal has been waived by the property owner.
- 9 (b) All below ground facilities, except the following:
- 10 1. Underground collector circuit facilities.
- 11 2. Those portions of concrete structures four feet or more below grade.
- 12 **(5)** “DNR” means the Wisconsin department of natural resources.
- 13 **(6)** “Maximum blade tip height” means the nominal hub height plus the nominal blade length of
14 a wind turbine, as listed in the wind turbine specifications provided by the wind turbine
15 manufacturer. If not listed in the wind turbine specifications, “maximum blade tip height” means
16 the actual hub height plus the blade length.
- 17 **(7)** “Nameplate capacity” means the nominal generating capacity of a wind energy system, as
18 listed in the wind turbine specifications provided by the wind turbine manufacturer.
- 19 **(8)** “Nonparticipating property” means real property for which all of the following apply:
- 20 (a) The property is not subject to an agreement between the landowner and developer that
21 permits the construction of any part of a wind energy system on the property.
- 22 (b) The property is not the subject of an agreement that specifies in writing that the property is a
23 participating property.

- 1 (9) “Nonparticipating residence” means a residence located on a nonparticipating property.
- 2 (10) “Occupied community building” means a school, church or similar place of worship,
3 daycare facility or public library.
- 4 (11) “Operator” means a person responsible for the operation and maintenance of a wind energy
5 system, including agents, contractors, successors, or assigns.
- 6 (12) “Owner” means any of the following:
- 7 (a) A person with an ownership interest in a wind energy system, including agents, contractors,
8 successors, or assigns, regardless of whether the person was involved in acquiring the necessary
9 rights, permits and approvals or otherwise planning for the construction and operation of a wind
10 energy system.
- 11 (b) An operator of a wind energy system, including agents, contractors, successors, or assigns,
12 regardless of whether the person was involved in acquiring the necessary rights, permits and
13 approvals or otherwise planning for the construction and operation of a wind energy system.
- 14 (13) “Participating property” means any of the following:
- 15 (a) Real property which is subject to an agreement between the landowner and a developer or
16 owner for the construction of any portion of a wind energy system on the property.
- 17 (b) Real property that is the subject of an agreement that does all of the following:
- 18 1. Provides for the payment of monetary compensation to the landowner from a developer or
19 owner regardless of whether any part of a wind energy system is constructed on the property.
- 20 2. Specifies in writing that the landowner’s acceptance of payment establishes the landowner’s
21 property as a participating property.
- 22 (14) “Participating residence” means residence located on a participating property.

1 **(15)** “Personal communications” includes wireless telecommunications, personal
2 communications service, radio, television, wireless internet service, and other systems used for
3 personal use purposes.

4 **(16)** “Political subdivision” has the meaning given in s. 66.0401 (1e) (c), Stats.

5 **(17)** “Residence” means an occupied permanent personal residence, hospital, community-based
6 residential facility, residential care apartment complex or similar facility, or nursing home.

7 **(18)** “Regulation” means any ordinance or resolution adopted by the governing body of a
8 political subdivision relating to a wind energy system.

9 *Note: A “regulation” does not include a contract between a political subdivision and a*
10 *developer regarding a wind energy system, so long as the contract does not establish any*
11 *conditions of the political subdivision's approval of the wind energy system.*
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13 **(19)** “Shadow flicker” means a pattern of moving shadows cast on a residence or an occupied
14 community building caused by sunlight shining through moving wind turbine blades resulting in
15 alternating changes in light intensity.

16 **(20)** “Small wind energy system” means a wind energy system that has a total installed
17 nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that
18 have an installed nameplate capacity of not more than 100 kilowatts.

19 **(21)** “Turbine host property” means real property which is subject to an agreement between a
20 landowner and a developer for the placement of one or more wind turbines.

21 **(22)** “Wind access easement” means a written document that creates a legal interest in real
22 property that restricts the use of the property to avoid interference with the wind resource on
23 another property.

24 **(23)** “Wind energy system” has the meaning given in s. 66.0403 (1) (m), Stats., and is used to
25 convert wind energy to electrical energy.

1 (24) "Wind energy system easement" means a written document that creates a legal interest in
2 real property that permits a developer or owner to place and construct a wind turbine or other
3 wind energy system facility on the property.

4 (25) "Wind energy system emergency" means a condition or situation at a wind energy system
5 that presents a significant threat of physical danger to human life or a significant threat to
6 property or a natural event that causes damage to wind energy system facilities.

7 (26) "Wind energy system facility" means any component of a wind energy system, such as a
8 wind turbine, collector circuit, access road, electric system interconnection facility, or an
9 operation and maintenance facility.

10 (27) "Wind energy system lease" means a written agreement between a landowner and a
11 developer or owner that establishes the terms and conditions associated with the placement and
12 construction of a wind turbine or other wind energy system facility on a landowner's property.

13

14 **PSC 128.02 Applicability. (1)** (a) Except as provided in par. (b) or (c), this chapter applies to a
15 wind energy system that does not require review by the commission under either ss. 196.49 or
16 196.491, Stats.

17 (b) This chapter does not apply to any of the following:

18 1. A wind energy system for which construction began before the effective date of this chapter
19 ...[LRB inserts date].

20 2. A wind energy system placed in operation before the effective date of this chapter ... [LRB
21 inserts date].

22 3. A wind energy system approved by a political subdivision before the effective date of this
23 chapter ... [LRB inserts date].

1 4. A wind energy system proposed by a developer in an application filed before the effective date
2 of the chapter ... [LRB inserts date] with a political subdivision that has an established procedure
3 for review of an application for a wind energy system.

4 (2) If a developer intends to construct a wind turbine with a maximum blade tip height
5 exceeding 500 feet, or a wind energy system in those portions of Lake Michigan or Lake
6 Superior that are within the jurisdiction of the state, the developer shall file a petition with the
7 commission for the commission to promulgate rules for the use and installation of the wind
8 energy system.

9 (3) (a) The commission shall consider whether the installation or use of a wind energy system is
10 consistent with the standards specified in this chapter when reviewing an application under s.
11 196.491, Stats., filed on or after the effective date of this chapter...[LRB inserts date].

12 (b) The commission may consider whether the installation or use of a wind energy system is
13 consistent with the standards specified in this chapter when reviewing an application under s.
14 196.49, Stats., filed on or after the effective date of this chapter...[LRB inserts date].

15 (4) Nothing in this chapter shall preclude the commission from giving individual consideration to
16 exceptional or unusual situations and applying requirements to an individual wind energy system
17 that may be lesser, greater, or different from those provided in this chapter.

18 (5) All rule provisions except the following apply even if a political subdivision has not enacted
19 an ordinance:

20 (a) Section PSC 128.18 (4) (b).

21 (b) Section PSC 128.18 (5) (e).

22 (c) Section PSC 128.19 (3).

23 (d) Section PSC 128.19 (5) (b).

1 (e) The provisions in s. PSC 128.30 (5) (b) that require the notice to include the method and time
2 period for the submission of public comments, and the approximate schedule for review of the
3 application.

4 (f) Section PSC 128.30 (6) (b) and (c).

5 (g) Section PSC 128.31 (2)

6 (h) Section PSC 128.32 (1) (a)

7 (i) Section PSC 128.32 (3)

8 (j) Section PSC 128.32 (5) (a) to (c).

9 (k) Section PSC 128.33.

10 (L) Section PSC 128.34 (1) (a) and (c).

11 (m) Section PSC 128.35 (1) (a).

12 (n) Section PSC 128.36 (1).

13 (o) Section PSC 128.36 (2) (a).

14 (p) Section PSC 128.36 (3)

15 **PSC 128.03 Political subdivision authority.** (1) A political subdivision may not place any
16 restriction, either directly or in effect, on the installation or use of a wind energy system except
17 by adopting an ordinance that complies with this chapter and s. 66.0401, Stats., and is not more
18 restrictive than this chapter.

19 (2) A political subdivision may indirectly affect the installation or use of a wind energy system
20 by exercising its authorized authority over usual and customary local government matters, except
21 that a political subdivision may not do so to impose a restriction or condition that overtly applies
22 only to a wind energy system, that applies to a wind energy system in purpose or effect, or that
23 disparately impacts a wind energy system compared with other types of structures.

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PSC 128.04 Enforcement. (1) A political subdivision shall be responsible for enforcing its wind energy system ordinance and permit provisions.

(2) The commission shall enforce its rules and orders under this chapter in the manner prescribed in s. 196.66, Stats., or by such other means as provided in the statutes or administrative code.

Subchapter II

Developer Requirements

PSC 128.10 Development of a wind energy system; Notice requirements. (1) At least 90 days before a developer files an application to construct a wind energy system, a developer shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:

- (a) Landowners within one mile of a planned wind turbine host property.
- (b) Political subdivisions within which the wind energy system may be located.
- (c) Emergency first responders and air ambulance service providers serving a political subdivision within which the wind energy system may be located.
- (d) The Wisconsin department of transportation.
- (e) The commission.
- (f) The DNR.
- (g) The Wisconsin department of agriculture, trade and consumer protection.
- (h) The office of the deputy under secretary of defense.

(2) The developer shall include all of the following in the notice under sub. (1):

- 1 (a) A complete description of the wind energy system, including the number and size of the
- 2 planned wind turbines.
- 3 (b) A map showing the planned location of all wind energy system facilities.
- 4 (c) Contact information for the developer.
- 5 (d) A list of all potential permits or approvals the developer anticipates may be necessary for
- 6 construction of the wind energy system.
- 7 (e) Whether the developer is requesting a joint application review process under s. PSC
- 8 128.30 (7) and the names of any other political subdivision that may participate in the joint
- 9 review process.

10

11 **PSC 128.11 Real property provisions. (1) WIND ENERGY SYSTEM EASEMENT AND**

12 **WIND ACCESS EASEMENT.** (a) A property owner may grant another person a wind energy

13 system easement or wind access easement in the same manner and with the same effect as a

14 conveyance of an interest in real property.

15 (b) A wind energy system easement or wind access easement shall be in writing and shall be

16 recorded with the register of deeds for the county in which the property is located. A wind

17 energy system easement or wind access easement shall include the term of the easement and a

18 legal description of the property subject to the easement.

19 **(2) WIND LEASE REQUIRED PROVISIONS.** A wind energy system lease shall include

20 provisions that do all of the following:

21 (a) Require the developer or owner to comply with all federal, state and local laws and

22 regulations applicable to the wind energy system.

1 (b) Permit the property owner to terminate the wind energy system lease if the portion of the
2 wind energy system located on the property is required to be decommissioned under s. PSC
3 128.19, unless the property owner receives the normal minimum payments that would have
4 occurred if the wind energy system had been operating during that time. In this paragraph,
5 “normal minimum payments” means the minimum payments as provided in the wind energy
6 system lease, or if not provided for in the wind energy system lease, payments at least equal to
7 the periodic payments received by the property owner in the last full calendar year that the wind
8 energy system was in full operation.

9 (c) Specify the circumstances under which the developer or owner may withhold payments from
10 the property owner.

11 (d) Permit the property owner to rescind an executed wind energy system lease and any related
12 wind energy system easement within 3 business days of signing the same.

13 **(3) PROHIBITIONS.** A wind energy system easement, wind energy system lease, or wind
14 access easement may not include provisions that do any of the following:

15 (a) Require the parties to maintain the confidentiality of the existence of the wind energy system
16 easement, wind energy system lease, or wind access easement.

17 (b) Make the property owner liable for any property tax associated with the wind energy system
18 or other equipment related to the production of electricity by the wind energy system.

19 (c) Make the property owner liable for any violation of federal, state or local laws and
20 regulations by the developer or owner.

21 (d) Make the property owner liable for any damages caused by the wind energy system or the
22 operation of the wind energy system, including liability or damage to the property owner or to
23 third parties.

1 **(4) MITIGATION AGREEMENTS.** A developer or owner may not, as a condition of receiving
2 any benefit to settle a noise, signal interference, stray voltage, shadow flicker, or other
3 complaint, require a property owner to keep the existence of the settlement confidential or
4 require the property owner to waive any right to make a future claim about an unrelated issue.

5
6 **PSC 128.12 Existing property uses.** A developer shall make reasonable efforts to ascertain
7 and accommodate land uses and commercial enterprises located on nonparticipating properties
8 within one-half mile of a proposed wind turbine site that exist or for which publicly-available
9 plans for construction are on file with a political subdivision at the time of the wind energy
10 system application. A developer shall monitor filings at a political subdivision to ensure
11 compliance with this section.

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13 **PSC 128.13 Siting criteria. (1) SETBACK DISTANCE AND HEIGHT REQUIREMENTS. (a)**
14 A developer shall design and construct a wind energy system using the wind turbine setback
15 distances shown in Table 1.

Table 1	
Setback Description	Setback Distance
Occupied Community Buildings	3.1 times the maximum blade tip height
Participating Residences	1.5 times the maximum blade tip height
Nonparticipating Residences	3.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.1 times the maximum blade tip height
Public Road Right-of-Way	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines - Not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height
Overhead Utility Service Lines - Lines to individual houses or outbuildings	None

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1 (b) Wind turbine setback distances shall be measured as a straight line from the vertical
2 centerline of the wind turbine tower to the nearest point on the permanent foundation of a
3 building or residence or to the nearest point on the property line or feature, as applicable.

4 (c) A developer shall work with a political subdivision and owners of participating and
5 nonparticipating properties to site wind turbines to minimize individual hardships.

6 (d) The owner of a nonparticipating residence or occupied community building may waive the
7 applicable wind turbine setback distances in Table 1 for those structures to a minimum setback
8 distance of 1.5 times the maximum blade tip height. The owner of a participating residence may
9 waive the applicable wind turbine setback distance in Table 1 for those structures to a minimum
10 setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating
11 property may waive the applicable wind turbine setback distance in Table 1 from a
12 nonparticipating property line.

13 **(2) POLITICAL SUBDIVISION CRITERIA.** (a) A political subdivision may not establish
14 setback distance or height requirements different than those in this chapter.

15 (b) A political subdivision may not establish long-term land use planning requirements or
16 practices that preclude the construction of a wind turbine or a wind energy system within the
17 political subdivision's jurisdiction.

18 (c) A political subdivision may not set height or setback distance limitations for a wind turbine
19 near a public use airport or heliport that are more restrictive than existing airport and airport
20 approach protection provisions under ss. 114.135 and 114.136, Stats. If no provisions have been
21 established for public use airports or heliports under ss. 114.135 or 114.136, Stats., the political
22 subdivision may adopt wind turbine height or setback distance provisions that are based on, but

1 not more restrictive than, the federal aviation administration obstruction standards in CFR title
2 14, part 77.

3 (d) A political subdivision may set height or setback distance limitations for wind turbines near a
4 private heliport at a medical facility used for air ambulance service that are based on, but not
5 more restrictive than, federal aviation administration obstruction standards that apply to public
6 use heliports.

7 (e) A political subdivision may not set height or setback distance limitations for a wind turbine
8 near a private use airport or heliport except as provided in par. (d).

9
10 **PSC 128.14 Noise Criteria. (1) DEFINITIONS.** In this section, nighttime hours are the hours
11 beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning
12 at 6:00 a.m. and ending at 10:00 p.m. daily.

13 **(2) PLANNING.** A developer shall comply with the noise standards in this section when making
14 wind turbine siting decisions.

15 **(3) NOISE STANDARD. (a)** Compliance with noise limits shall be evaluated at the outside wall
16 of the nonparticipating residence or occupied community building. If sound level measurements
17 are used to evaluate compliance, those measurements shall be made as near as possible to the
18 outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner
19 of the nonparticipating residence or occupied community building. The developer or owner may
20 take additional measurements to evaluate compliance in addition to those specified by this
21 section.

22 (b) Except as provided in par. (c) and subs. (4) (a) and (d), a developer or owner shall operate the
23 wind energy system in a manner that does not exceed 50 dBA during daytime hours and 45 dBA

1 during nighttime hours at the outside wall nearest to the closest wind turbine at any
2 nonparticipating residence or occupied community building existing or for which a building
3 permit has been filed at the time the political subdivision receives notice of the planned wind
4 energy system pursuant to s. PSC 128.10 (1). A developer shall be responsible for monitoring
5 building permit filings to ensure compliance with this paragraph.

6 (c) In the event audible noise due to wind energy system operations contains a steady pure tone,
7 such as a whine, whistle, screech, or hum, the developer or owner shall promptly take corrective
8 action to permanently eliminate the cause of the steady pure tone. This paragraph does not apply
9 to rhythmic sound that may be generated by the rotation of wind turbine blades under normal
10 operating conditions.

11 **(4) COMPLIANCE.** (a) Upon receipt of a complaint by a nonparticipating resident, a developer
12 or owner shall test for compliance with the noise limits in sub. (3) (b). A political subdivision or
13 monitoring committee established under s. PSC 128.36 (3) may not require additional testing if
14 the developer or owner has provided the results of an accurate test conducted within two years of
15 the date of the complaint showing that the wind energy system is in compliance at the location
16 relating to the complaint.

17 (b) Methods available for the developer or owner to comply with sub. (3) (b) shall include
18 operational curtailment of one or more wind turbines. Methods available for the developer or
19 owner to comply with sub. (3) (c) shall include curtailment of one or more wind turbines during
20 nighttime hours.

21 (c) A developer or owner shall evaluate compliance with sub. (3) (b) as part of pre- and post-
22 construction noise studies. A developer or owner shall conduct pre- and post-construction noise

1 studies under the most current version of the noise measurement protocol as described in s. PSC
2 128.40 (2).

3 (d) Upon request by a developer or owner, an owner of an affected nonparticipating residence or
4 occupied community building may relieve the developer or owner of the requirement to meet any
5 of the noise requirements in this section at the affected residence or occupied community
6 building by written contract with the developer or owner. Unless otherwise provided in a
7 contract signed by an owner of an affected nonparticipating residence or occupied community
8 building, a waiver by an owner of an affected nonparticipating residence or occupied community
9 building is an encumbrance on the real property, runs with the land until the wind energy system
10 is decommissioned, and shall be recorded with the register of deeds for the county in which the
11 property is located.

12 **(5) NOTIFICATION.** (a) Before entering into a contract under sub. (4) (d), a developer or owner
13 shall provide written notice of the requirements of this section to the owner of an affected
14 nonparticipating residence or occupied community building.

15 (b) A developer or owner shall provide notice of the requirements of this section to a potentially-
16 affected owner of a nonparticipating residence or occupied community building before the initial
17 operation of the wind energy system.

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19 **PSC 128.15 Shadow flicker. (1) PLANNING.** (a) A developer shall consider shadow flicker in
20 wind turbine siting decisions. A developer shall plan the proposed wind energy system to
21 minimize shadow flicker at a residence or occupied community building to the extent reasonably
22 practicable.

1 (b) A developer shall use shadow flicker computer modeling to estimate the amount of shadow
2 flicker anticipated to be caused by a wind energy system.

3 **(2) SHADOW FLICKER STANDARD.** A developer or owner shall operate the wind energy
4 system in a manner that does not cause more than 30 hours per year of shadow flicker at a
5 nonparticipating residence existing or for which a building permit has been filed at the time the
6 political subdivision receives notice of the planned wind energy system under s. PSC 128.10 (1).
7 A developer shall monitor building permit filings to ensure compliance with this subsection.

8 **(3) MITIGATION.** (a) A developer or owner shall work with an owner of a residence or
9 occupied community building to mitigate the effects of shadow flicker to the extent reasonably
10 practicable.

11 (b) The developer or owner shall provide reasonable shadow flicker mitigation at the developer's
12 or owner's expense for a nonparticipating residence experiencing 20 hours per year or more of
13 shadow flicker.

14 (c) The developer or owner shall model shadow flicker and a nonparticipating residence is
15 eligible for mitigation if computer modeling shows that shadow flicker experienced at the
16 nonparticipating residence will be 20 hours per year or more. The owner of the nonparticipating
17 residence is not required to document the actual hours per year of shadow flicker if modeling
18 indicates the nonparticipating residence is eligible for mitigation. A nonparticipating residence
19 that experiences 20 hours per year or more of shadow flicker based on records kept by the
20 resident shall also be eligible for mitigation.

21 (d) A developer or owner may provide shadow flicker mitigation for any residence or occupied
22 community building in addition to the mitigation required under par. (b).

1 (e) The requirement under par. (b) to mitigate shadow flicker is triggered when the developer or
2 owner receives a complaint or request for mitigation regarding shadow flicker for an eligible
3 nonparticipating residence. If shadow flicker mitigation is required, the developer or owner shall
4 allow the owner of the nonparticipating residence to choose a preferred reasonable mitigation
5 technique, including installation of blinds or plantings at the developer's or owner's expense.

6 **(4) WAIVER.** Upon request by a developer or owner, an owner of an affected residence or
7 occupied community building may relieve the developer or owner of the requirement to meet any
8 of the shadow flicker requirements in this section at the affected residence by written contract
9 with the developer or owner. Unless otherwise provided in a contract signed by an owner of an
10 affected residence or occupied community building, a waiver by an owner of an affected
11 residence or occupied community building is an encumbrance on the real property and runs with
12 the land until the wind energy system is decommissioned, and shall be recorded with the register
13 of deeds for the county in which the property is located.

14 **(5) NOTIFICATION.** (a) Before entering into a contract under sub. (4), a developer or owner
15 shall provide notice of the requirements of this section to individual owners of an affected
16 residence or occupied community building.

17 (b) A developer or owner shall provide notice of the requirements of this section to a potentially-
18 affected owner of a nonparticipating residence or occupied community building before the initial
19 operation of the wind energy system.

20

21 **PSC 128.16 Signal interference. (1) PLANNING.** (a) A developer shall consider commercial
22 communications and personal communications interference in wind turbine siting decisions and

1 shall use reasonable efforts to avoid causing interference with commercial communications and
2 personal communications to the extent practicable.

3 (b) The developer or owner may not construct wind energy system facilities within existing line-
4 of-sight communication paths that are used by government or military entities to provide services
5 essential to protect public safety. A political subdivision may require a developer to provide
6 information showing that wind turbines and other wind energy system facilities will be in
7 compliance with this paragraph.

8 **(2) COMMERCIAL COMMUNICATIONS INTERFERENCE MITIGATION.** A developer or
9 owner shall use best commercially available technology to mitigate interference caused by a
10 wind energy system with commercial communications in use at the time a wind energy system
11 begins operation until the wind energy system is decommissioned. Before implementing
12 mitigation measures, the developer or owner shall consult with affected parties regarding the
13 preferred mitigation solution for commercial communications interference problems. A
14 developer or owner shall mitigate commercial communications interference caused by the wind
15 energy system by making the affected party's preferred reasonable mitigation solution effective
16 until the wind energy system is decommissioned, except as provided in sub. (4).

17 **(3) PERSONAL COMMUNICATIONS INTERFERENCE MITIGATION.** A developer or
18 owner shall use best commercially available technology to mitigate interference with personal
19 communications in use at the time a wind energy system begins operation caused by a wind
20 energy system until the wind energy system is decommissioned. Before implementing
21 mitigation measures, the developer or owner shall consult with affected parties regarding the
22 preferred mitigation solution for personal communications interference problems. A developer
23 or owner shall mitigate personal communications interference caused by the wind energy system

1 by making the affected party's preferred reasonable mitigation solution effective until the wind
2 energy system is decommissioned, except as provided in sub. (4).

3 **(4) MITIGATION PROTOCOL.** The commission may, in a protocol established under s. PSC
4 128.40 (2), require a developer or owner to implement a new mitigation solution that becomes
5 commercially available before the wind energy system is decommissioned to address
6 interference for which mitigation is required under sub. (2) and (3) and for which the original
7 mitigation solution implemented is only partially effective.

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9 **PSC 128.17 Stray voltage. (1) STRAY VOLTAGE TESTING REQUIRED.** (a) Except as
10 otherwise specified by commission staff under par. (b) or under a protocol established under s.
11 PSC 128.40 (2), a developer or owner shall work with the local electric distribution company to
12 test for stray voltage at all dairy and confined animal operations within one-half mile of a wind
13 energy system facility before any wind energy system construction activity that may interfere
14 with testing commences and again after construction of the wind energy system is completed.
15 (b) Before any testing under par. (a) begins, a developer or owner shall work with commission
16 staff to determine the manner in which stray voltage testing will be conducted and on which
17 properties. The electric distribution company serving a dairy or confined animal operation where
18 testing is required under par. (a) shall conduct or arrange to conduct all required testing at the
19 expense of the developer. Stray voltage testing under par. (a) shall be conducted following the
20 stray voltage protocol established under s. PSC 128.40 (2).

21 **(2) RESULTS OF TESTING.** A developer or owner and the electric distribution company shall
22 provide to commission staff the results of all stray voltage testing in writing.

1 **(3) REQUIREMENT TO RECTIFY PROBLEMS.** A developer or owner shall work with the
2 electric distribution company and farm owner to rectify any stray voltage problems attributable
3 to the construction and operation of the wind energy system in compliance with the stray voltage
4 protocol established under s. PSC 128.40 (2).

5
6 **PSC 128.18 Construction and operation. (1) PHYSICAL CHARACTERISTICS. (a)**

7 A developer or owner may not display advertising material or signage other than warnings,
8 equipment information, or indicia of ownership on a wind turbine. A developer or owner may
9 not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or
10 revolving devices to a wind turbine. A developer or owner may attach a safety feature or wind
11 monitoring device to a wind turbine.

12 (b) A developer or owner shall ensure that a wind turbine has a conventional or unobtrusive
13 finish.

14 (c) A developer or owner shall install lighting at a wind energy system that complies with
15 standards established by the federal aviation administration. A political subdivision may not
16 establish lighting requirements for a wind energy system that conflict with standards established
17 by the federal aviation administration. A political subdivision may require use of shielding or
18 control systems approved by the federal aviation administration to reduce visibility of lighting to
19 individuals on the ground.

20 (d) A developer or owner shall take appropriate measures to ensure that a wind turbine is not
21 readily climbable except by authorized personnel.

22 (e) A developer or owner shall ensure that all wind turbine access doors and electrical equipment
23 are locked when authorized personnel are not present.

1 (f) A developer or owner shall place appropriate warning signage on or at the base of each wind
2 turbine.

3 (g) A developer or owner shall post and maintain up-to-date signs containing a twenty-four hour
4 emergency contact telephone number, information identifying the owner or operator, and
5 sufficient information to identify the location of the sign within the wind energy system. A
6 developer or owner shall post these signs at every intersection of a wind energy system access
7 road with a public road and at each wind turbine location.

8 (h) A developer or owner shall clearly mark guy wires and supports for a wind energy system,
9 meteorological tower or other device for measuring wind speeds so that the wires and supports
10 are visible to low flying aircraft under fair weather conditions.

11 **(2) ELECTRICAL STANDARDS.** (a) A developer or owner shall construct, maintain, and
12 operate collector circuit facilities in a manner that complies with the national electrical safety
13 code and ch. PSC 114 and shall construct, maintain, and operate all wind energy system facilities
14 in a manner that complies with the national electrical code.

15 (b) A developer or owner shall construct collector circuit facilities for a wind energy system
16 underground to the extent practicable.

17 (c) A developer or owner shall establish an inspection schedule for all overhead collector circuits
18 to ensure that third-party facilities such as cable television and telecommunications cables are
19 not attached and bonded to overhead collector circuit grounding. If third-party facilities are
20 found attached to the overhead collector facilities, developer or owner shall ensure that the third-
21 party facilities are promptly removed.

22 **(3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS.** (a) A developer
23 or owner shall construct, operate, repair, maintain and replace wind energy system facilities as

1 needed to keep the wind energy system in good repair and operating condition and in a manner
2 that provides for the safeguarding of individuals from injury.

3 (b) Except for the area physically occupied by the wind energy system facilities, a developer or
4 owner shall restore the topography, soils and vegetation of the project area to original condition
5 after construction is complete considering any modifications needed to comply with DNR
6 requirements, unless otherwise provided in a contract signed by an affected landowner.

7 (c) A developer or owner shall carry general liability insurance relating to claims for property
8 damage or bodily injury arising from the construction or operation of the wind energy system
9 and shall include turbine host property owners as additional insured persons on the policy.

10 **(4) TRANSPORTATION PLAN.** (a) A developer shall prepare a transportation plan for
11 construction of the wind energy system in consultation with the department of transportation and
12 affected political subdivisions that does all of the following:

- 13 1. Minimizes impacts to existing traffic patterns.
- 14 2. Takes into account highway safety.
- 15 3. Plans for the movements of oversize and overweight equipment on highways.
- 16 4. Identifies any access points that may be needed between private property and state trunk
17 highways or local roads during construction or operation of the wind energy system.
- 18 5. Identifies any wind energy system facility to be located within state trunk highways or local
19 roads.
- 20 6. Provides the means for mitigating, assessing and repairing, at the developer's expense, road
21 damage caused by construction and operation of the wind energy system.

22 (b) A political subdivision may require a developer to include in a transportation plan under par.

23 (a) the proposed type and period of use of local roads, a proposed process for mitigation of any

1 damage to local roads related to construction and operation of the wind energy system, and a
2 process for pre- and post-construction review by the political subdivision.

3 **(5) EMERGENCY PROCEDURES.** (a) An owner shall notify a political subdivision of the
4 occurrence and nature of a wind energy system emergency within 24 hours of the wind energy
5 system emergency.

6 (b) An owner shall establish and maintain liaison with a political subdivision and with fire,
7 police, and other appropriate first responders serving the wind energy system to create effective
8 emergency plans that include all of the following:

9 1. A list of the types of wind energy system emergencies that require notification under par. (a).
10 2. Current emergency contact information for first responders and for the wind energy system
11 owner, including names and phone numbers.

12 3. Procedures for handling different types of wind energy system emergencies, including written
13 procedures that provide for shutting down the wind energy system or a portion of the system as
14 appropriate.

15 4. Duties and responsibilities of the owner and of first responders in the event of a wind energy
16 system emergency.

17 5. An emergency evacuation plan for the area within one-half mile of any wind energy system
18 facility, including the location of alternate landing zones for emergency services aircraft.

19 (c) The owner shall review the emergency plan at least annually in collaboration with fire, police
20 and other appropriate first responders to update and improve the emergency plan as needed.

21 (d) The owner shall distribute current copies of the emergency plan to the political subdivision
22 and fire, police and other appropriate first responders as identified by the political subdivision.

1 (e) A political subdivision may require the owner to provide annual training for fire, police and
2 other appropriate first responders regarding responding to a wind energy system emergency until
3 the wind energy system has been decommissioned.

4 (f) An owner of a wind energy system shall do all of the following:

5 1. Furnish its operator, supervisors and employees who are responsible for emergency action a
6 copy of the current edition of the emergency procedures established under this subsection to
7 ensure compliance with those procedures.

8 2. Train the appropriate operating personnel to ensure they have knowledge of the emergency
9 procedures and verify that the training is effective.

10 3. As soon as possible after the end of a wind energy system emergency, review employee
11 activities to determine whether the procedures were effectively followed.

12 **(6) COMPLAINT PROCESS.** (a) A developer or owner shall use reasonable efforts to resolve
13 complaints regarding a wind energy system and shall investigate complaints regarding a wind
14 energy system at the developer's or owner's expense. A developer or owner shall develop a
15 complaint resolution process in compliance with this subsection.

16 (b) Before construction of a wind energy system begins, a developer shall provide written notice
17 of the process for making complaints and obtaining mitigation measures to all residents and
18 landowners within one-half mile of any wind energy system facility. A developer shall include
19 in the notice a detailed description of the requirements for submitting a complaint to the
20 developer or owner, to the political subdivision, and to the commission, and shall include a
21 contact person and telephone number for complaints or concerns during construction, operation,
22 maintenance and decommissioning. A developer shall provide a copy of the notice to any
23 political subdivision within which the wind energy system will be located, and the developer or

1 owner shall keep the contact person and telephone number current and on file with the political
2 subdivision.

3 (c) Upon receipt of a complaint, a developer or owner shall provide the complainant with a copy
4 of the notice described in par. (b). Within 30 days of receiving a complaint, a developer or
5 owner shall provide an initial response to the complainant. A developer or owner shall make a
6 good faith effort to resolve complaints within 45 days of receiving a complaint.

7 (d) A developer or owner shall maintain a log of all complaints received regarding the wind
8 energy system. The log shall include the name and address of the complainant, the nature of the
9 complaint, and the steps taken to resolve the complaint. A developer or owner shall make copies
10 of this complaint log available monthly, at no cost, to either a monitoring committee established
11 under s. PSC 128.36 (3) by a political subdivision in which the wind energy system is located, or
12 if a monitoring committee has not been established, to the political subdivision.

13 (e) A developer or owner shall make any complaint log available to the commission upon
14 request.

15
16 **PSC 128.19 Decommissioning. (1) REQUIREMENT TO DECOMMISSION.** (a) The owner
17 of a wind energy system shall decommission and remove a wind energy system when the system
18 is at the end of its useful life.

19 (b) A wind energy system is presumed to be at the end of its useful life if the wind energy system
20 generates no electricity for a continuous 360 day period. This presumption may be rebutted for a
21 period of 180 days after the date the wind energy system is presumed to be at the end of its
22 useful life if the owner submits to the political subdivision a plan outlining the steps and

1 schedule for returning the wind energy system to service within 180 days after the presumed end
2 of its useful life.

3 (c) Upon application by the owner under par. (b) and except as provided in par. (d), a political
4 subdivision shall grant an extension of the time period for returning the wind energy system to
5 service by one or more additional 180 day periods if the owner demonstrates it is likely the wind
6 energy system will operate again in the future and any of the following occur:

7 1. The owner submits a plan to the political subdivision that demonstrates an ongoing good faith
8 effort to return the wind energy system to service and outlines the steps and schedule for
9 returning the wind energy system to service in a reasonable period of time, including by
10 repairing, replacing or repowering the wind energy system facilities as necessary to generate
11 electricity.

12 2. The owner demonstrates that the wind energy system is part of a prototype or other
13 demonstration project being used for ongoing research or development purposes.

14 3. The owner demonstrates that the wind energy system is being used for educational purposes.

15 (d) A political subdivision may deny a request for an extension under par. (c) if the wind energy
16 system has not generated any electricity for a continuous period of 540 days or more and the
17 political subdivision finds that the owner is not capable of returning the wind energy system to
18 service within a reasonable period of time.

19 (e) A wind energy system is irrebuttably presumed to be at the end of its useful life if the wind
20 energy system generates no electricity for a period of 540 days and any of the following occur:

21 1. The owner does not request an extension of the time period for returning the wind energy
22 system to service under par. (b).

1 2. The political subdivision denies a request for an extension under par. (d) and any appeal rights
2 have expired.

3 (f) When decommissioning is required, the owner shall begin decommissioning within 360 days
4 after the wind energy system has reached the end of its useful life. The owner shall complete
5 decommissioning and removal of the wind energy system within 540 days after the wind energy
6 system has reached the end of its useful life.

7 **(2) DECOMMISSIONING REVIEW.** A political subdivision may establish a decommissioning
8 review process to determine when a wind energy system has reached the end of its useful life.

9 **(3) FINANCIAL RESPONSIBILITY.** (a) A political subdivision may require a developer or
10 owner of a wind energy system with a nameplate capacity of one megawatt or larger to provide
11 information to the political subdivision that demonstrates proof of the owner's financial ability to
12 comply with requirements regarding decommissioning before commencing operation of the wind
13 energy system. A developer or owner may establish proof of financial responsibility to comply
14 with this section by bond, deposit, escrow account, irrevocable letter of credit, other financial
15 commitment acceptable to the political subdivision or some combination of these financial
16 assurances.

17 (b) A political subdivision may not require a developer or owner to provide financial assurance
18 under this section in an amount exceeding 10 percent of the cost to construct the wind energy
19 system. If a political subdivision requires a developer or owner to provide financial assurance
20 under par. (a), the developer or owner shall provide the political subdivision with reasonable cost
21 estimates for determining the amount of the assurance to be required.

22 (c) A political subdivision may condition the political subdivision's approval of a wind energy
23 system on the developer's or owner's compliance with par. (a), however a political subdivision

1 may not deny an application to construct a wind energy system for failure to prove the owner's
2 financial ability to comply with the requirements of this section if the developer meets the
3 requirements in par. (a).

4 (d) During the useful life of a wind energy system, the political subdivision may periodically
5 request information from an owner regarding the industry costs for decommissioning the wind
6 energy system. If during the useful life of a wind energy system a political subdivision finds that
7 the future anticipated cost to decommission the wind energy system is at least 10 percent more or
8 less than the financial assurance on file with the political subdivision, except as provided in par.

9 (b) the political subdivision may increase or decrease the level of financial assurance required for
10 a wind energy system. A political subdivision may not adjust the financial assurance under this
11 paragraph more often than once in a two-year period.

12 (e) A political subdivision may require a developer or owner to submit to the political
13 subdivision a substitute instrument under par. (a) upon the occurrence of an event which raises
14 material concerns regarding the continued viability of the previously-submitted financial
15 assurance.

16 **(4) SITE RESTORATION.** (a) Except as provided in par. (b), if a wind energy system was
17 constructed on land owned by a person other than the owner of the wind energy system, the
18 owner of the wind energy system shall ensure that the property is restored to preconstruction
19 condition including any modifications needed to comply with DNR requirements, unless
20 otherwise provided in a contract signed by an affected landowner.

21 (b) If a wind energy system was constructed on a brownfield, as defined in s. 560.13 (1) (a),
22 Stats., the owner shall restore the property to eliminate effects caused by the wind energy system,

1 except for the effects of environmental remediation activities, as defined in s. 560.13(1) (d),
2 Stats.

3 **(5) DECOMMISSIONING COMPLETION.** (a) An owner shall file a notice of decommissioning
4 completion with the political subdivision and the commission when a wind energy system
5 approved by the political subdivision has been decommissioned and removed.

6 (b) Within 360 days of receiving a notice of decommissioning, a political subdivision shall
7 determine whether the wind energy system has satisfied the requirements of subs. (1) (a) and (4).

8
9 **Subchapter III**

10 **Political Subdivision Procedure**

11
12 **PSC 128.30 Application and notice requirements.** **(1) APPLICATION REQUIRED.** A
13 developer shall file an application to construct a wind energy system with all political
14 subdivisions within which the wind energy system will be located.

15 **(2) CONTENTS OF AN APPLICATION.** A developer shall complete and file with the political
16 subdivision an application that includes all of the following:

17 (a) Wind energy system description and maps showing the locations of all proposed wind energy
18 facilities.

19 (b) Technical description of wind turbines and wind turbine sites.

20 (c) Timeline and process for constructing the wind energy system.

21 (d) Information regarding anticipated impact of the wind energy system on local infrastructure.

22 (e) Information regarding noise attributable to the wind energy system.

23 (f) Information regarding shadow flicker anticipated to be attributable to the wind energy system.

- 1 (g) Information regarding the anticipated effects of the wind energy system on existing land uses
2 within one-half mile of the wind energy system.
- 3 (h) Information regarding the anticipated effects of the wind energy system on airports and
4 airspace.
- 5 (i) Information regarding the anticipated effects of the wind energy system on line-of-sight
6 communications.
- 7 (j) A list of all state and federal permits required to construct and operate the wind energy
8 system.
- 9 (k) A copy of any transportation plan developed under s. PSC 128.18 (4).
- 10 (L) A copy of all emergency plans developed in collaboration with appropriate first responders
11 under s. PSC 128.18 (5) (b). A developer or owner may file plans using confidential filing
12 procedures as necessary.
- 13 (m) A decommissioning and site restoration plan that provides reasonable assurances that the
14 developer or owner will be able to comply with s. PSC 128.19.
- 15 (n) A representative copy of all notices issued under ss. PSC 128.10 (1) (a), 128.18 (6) (b) and
16 128.30 (5).
- 17 (p) Any other information necessary to understand the proposed wind energy system.
- 18 **(3) ACCURACY OF INFORMATION.** The developer shall ensure that information contained in
19 an application is accurate and internally consistent.
- 20 **(4) DUPLICATE COPIES.** A political subdivision may specify a reasonable number of copies to
21 be filed. Each copy shall include all worksheets, maps, and other attachments included in the
22 application. A political subdivision may permit a developer to file an application electronically.

1 **(5) NOTICE TO PROPERTY OWNERS.** (a) On the same day a developer files an application
2 for a wind energy system, the developer shall, under s. 66.0401 (4) (a) 3., Stats., use
3 commercially reasonable methods to provide written notice of the filing of the application to
4 property owners and residents located within one mile of the proposed location of any wind
5 energy system facility. The notification shall include all of the following:

- 6 1. A complete description of the wind energy system, including the number and size of the wind
7 turbines.
- 8 2. A map showing the locations of all proposed wind energy system facilities.
- 9 3. The proposed timeline for construction and operation of the wind energy system.
- 10 4. Locations where the application is available for public review.
- 11 5. Developer contact information.

12 (b) After a political subdivision receives an application for a wind energy system, the notice
13 required to be published by the political subdivision under s. 66.0401 (4) (a) 1., Stats., shall
14 include a brief description of the proposed wind energy system and its proposed location, the
15 locations where the application is available for public review, the method and time period for the
16 submission of public comments to the political subdivision, and the approximate schedule for
17 review of the application by the political subdivision.

18 **(6) PUBLIC PARTICIPATION.** (a) A political subdivision shall make an application for a wind
19 energy system available for public review at a local library and at the political subdivision's
20 business office or some other publicly-accessible location. A political subdivision may also
21 provide public access to the application electronically.

22 (b) A political subdivision shall establish a process for accepting and considering written public
23 comments on an application for a wind energy system.

1 (c) A political subdivision shall hold at least one public meeting to obtain comments on and to
2 inform the public about a proposed wind energy system.

3 **(7) JOINT APPLICATION REVIEW PROCESS.** (a) If the wind energy system is proposed to
4 be located in the jurisdiction of more than one political subdivision, the political subdivisions
5 involved may conduct a joint application review process on their own motion or upon request. If
6 a developer requests a joint application review, the developer shall include the request in its
7 notice of intent to file an application with the political subdivision under s. PSC 128.10 (1). If
8 the developer requests a joint application review process, the political subdivisions involved
9 shall approve or deny this request within 60 days of receipt of the developer's notice of intent to
10 file an application.

11 (b) Except as provided in s. 66.0401(4)(a)2., Stats., if political subdivisions elect to conduct a
12 joint application review process, the process shall be consistent with this chapter and the political
13 subdivisions shall establish the process within 90 days of the date the political subdivisions
14 receive the developer's notice of intent to file an application. A political subdivision may follow
15 the review process of another political subdivision for purposes of conducting a joint application
16 review process concurrently with the other political subdivision. If a joint application review
17 process is adopted, the developer shall file the application with all of the political subdivisions
18 participating in the joint review process.

19
20 **PSC 128.31 Application completeness. (1) COMPLETE APPLICATIONS.** (a) A political
21 subdivision shall determine whether an application is complete applying the detailed application
22 filing requirements established by the commission under ss. PSC 128.30 (2) and 128.40 (1).

1 (b) The political subdivision shall notify the developer in writing of the completeness
2 determination no later than 45 days after the day the application is filed. An application is
3 considered filed the day the developer notifies the political subdivision in writing that all the
4 application materials have been filed. If a political subdivision determines that the application is
5 incomplete, the notice provided to the developer shall state the reasons for the determination.

6 (c) A developer may file a supplement to an application that the political subdivision has
7 determined to be incomplete. There is no limit to the number of times that the developer may re-
8 file an application. For incomplete applications, the developer shall provide additional
9 information as specified in the notice.

10 (d) Subsequent 45-day completeness review periods shall begin the day after the political
11 subdivision receives responses to all items identified in the notice.

12 (e) If a political subdivision does not make a completeness determination within the applicable
13 review period, the application is considered to be complete.

14 **(2) REQUESTS FOR ADDITIONAL INFORMATION.** A political subdivision may request
15 additional information necessary to understand the wind energy system after determining that an
16 application is complete. A developer shall provide additional information in response to all
17 reasonable requests. A developer shall respond to all inquiries made subsequent to a
18 determination of completeness in a timely, complete, and accurate manner.

19
20 **PSC 128.32 Political subdivision review of a wind energy system. (1) APPROVAL BY**
21 **POLITICAL SUBDIVISION.** (a) Except as provided in par. (b), a political subdivision may
22 require a developer to obtain approval from the political subdivision before constructing any of
23 the following:

- 1 1. A wind energy system.
- 2 2. An expansion of an existing or previously-approved wind energy system.
- 3 (b) A political subdivision may not require a developer to obtain approval from the political
- 4 subdivision under this chapter for any of the following:
- 5 1. A wind energy system placed in operation before the effective date of this chapter ... [LRB
- 6 inserts date].
- 7 2. A wind energy system for which construction began before the effective date of this chapter
- 8 ...[LRB inserts date].
- 9 3. A wind energy system approved by the political subdivision before the effective date of this
- 10 chapter ... [LRB inserts date].
- 11 4. A wind energy system proposed by a developer in an application filed before the effective date
- 12 of the chapter ... [LRB inserts date] with a political subdivision that has an established procedure
- 13 for review of applications for wind energy systems.
- 14 **(2) STANDARD FOR APPROVAL.** (a) A political subdivision may not unreasonably deny an
- 15 application for a wind energy system or impose unreasonable conditions.
- 16 (b) For a political subdivision that does not have in effect an ordinance as described in s. PSC
- 17 128.03 (1) and s. 66.0401 (4) (g), Stats., an application submitted under s. PSC 128.30 (1) shall
- 18 be considered automatically approved if any of the following occur:
- 19 1. The political subdivision does not enact an ordinance before the first day of the 4th month
- 20 after the political subdivision receives the application.
- 21 2. The political subdivision notifies the applicant in writing that it does not intend to enact an
- 22 ordinance, as described in s. 66.0401 (4) (a) 2., Stats.

1 (c) Notwithstanding automatic approval of an application under par. (b), a developer or owner of
2 a wind energy system shall comply with this chapter.

3 **(3) WRITTEN DECISION.** (a) A political subdivision shall issue a written decision to grant or
4 deny an application for a wind energy system. The written decision shall include findings of fact
5 supported by evidence in the record. If an application is denied, the decision shall specify the
6 reason for the denial. An approval may be subject to the conditions in s. PSC 128.33.

7 (b) 1. A political subdivision shall provide its written decision to the developer and to the
8 commission. If a political subdivision approves an application for a wind energy system, the
9 political subdivision shall provide the developer with a duplicate original of the decision.

10 2. The developer shall record the duplicate original of a decision approving an application with
11 the register of deeds for the county in which the wind energy system is located.

12 **(4) EFFECT OF OWNERSHIP CHANGE ON APPROVAL.** Approval by a political subdivision
13 of a wind energy system remains in effect if there is a change in the owner of the wind energy
14 system. A political subdivision may require an owner to provide timely notice of any change in
15 the owner of the wind energy system.

16 **(5) FEES.** (a) A political subdivision may charge a developer a reasonable application fee or
17 require a developer to reimburse the political subdivision for reasonable expenses relating to the
18 review and process of an application for a wind energy system.

19 (b) A political subdivision's fee or reimbursement requirement shall be based on the actual and
20 necessary cost of the review of the wind energy system application, and may include the cost of
21 services necessary to review an application that are provided by outside engineers, attorneys,
22 planners, environmental specialists, and other consultants or experts. The political subdivision

1 may by ordinance set standardized application fees based on the size and complexity of a
2 proposed wind energy system.

3 (c) A political subdivision may require a developer of a wind energy system to submit up to 50
4 percent of the total estimated amount of the fee or reimbursement for the wind energy system
5 application under par. (a) before issuing a written decision under sub. (3) (a) if the political
6 subdivision gives written notice to the developer of its intent to do so within 10 days of the date
7 the application is deemed complete and the notice contains an estimate of the amount of the fee
8 and the relevant reimbursement requirements.

9 (d) A political subdivision may not charge an owner an annual fee or other recurring fees to
10 operate or maintain a wind energy system.

11

12 **PSC 128.33 Political subdivision permitted provisions.** A political subdivision may do any of
13 the following in an ordinance or establish any of the following as a condition for approval of an
14 application to construct a wind energy system:

15 (1) Require information describing how the developer has consulted with the DNR and other
16 natural resource agencies, whether the developer has implemented current DNR and US Fish and
17 Wildlife Service guidelines for avoiding and minimizing potential impacts to natural resources
18 and whether the developer has incorporated any project-specific DNR recommendations
19 regarding natural resources not subject to specific DNR permits.

20 (2) Require a developer or owner to cooperate with any study coordinated by the commission or
21 the DNR of the effects of wind energy systems on wildlife populations.

22 (3) Require a developer or owner to offer agreements that include annual monetary
23 compensation to the owner of a nonparticipating residence if the residence is within one-half

1 mile of a planned wind turbine site. If a political subdivision requires a developer or owner to
2 offer such an agreement, the political subdivision may not require the total annual payment
3 offered to any owner of a nonparticipating residence to exceed the amount paid by the developer
4 or owner to any owner of a turbine host property receiving payment under a wind energy system
5 lease for one wind turbine. An agreement offered under this paragraph shall specify in writing
6 whether the landowner's acceptance of payment establishes the landowner's property as a
7 participating property under this chapter.

8 **(4)** Require the developer to submit to the political subdivision copies of all necessary state and
9 federal permits and approvals before the start of construction.

10 **(5)** Require the owner to file an annual report with the political subdivision documenting the
11 operation and maintenance of the wind energy system during the previous calendar year.

12 **(6)** Require a developer to provide information describing how the developer has consulted with
13 the department of agriculture, trade and consumer protection regarding guidelines for avoiding
14 and minimizing potential impacts to agricultural productivity and whether the developer has
15 incorporated any project-specific recommendations.

16

17 **128.34 Record of decision.** **(1) RECORDKEEPING.** (a) A political subdivision shall keep a
18 complete written record of its decision-making relating to an application for a wind energy
19 system.

20 (b) If a political subdivision denies an application, the political subdivision shall keep the record
21 for at least seven years following the year in which it issues the decision.

1 (c) If a political subdivision approves an application, the political subdivision shall keep the
2 record for at least seven years after the year in which the wind energy system is
3 decommissioned.

4 **(2) RECORD CONTENTS.** The record of a decision shall include all of the following:

5 (a) The approved application and all additions or amendments to the application.

6 (b) A representative copy of all notices issued under ss. PSC 128.10 (1) (a), 128.18 (6) (b) and
7 128.30 (5).

8 (c) A copy of any notice or correspondence that the political subdivision issues related to the
9 application.

10 (d) A record of any public meeting under s. PSC 128.30 (6) (c) and any hearing related to the
11 application. The record may be an electronic recording, a transcript prepared from an electronic
12 recording, or a transcript prepared by a court reporter or stenographer. The record shall include
13 any documents or evidence submitted by meeting or hearing participants.

14 (e) Copies of any correspondence or evidentiary material that the political subdivision considered
15 in relation to the application, including copies of all written public comments filed under s. PSC
16 128.30 (6) (b).

17 (f) Minutes of any board or committee meetings held to consider or act on the application.

18 (g) A copy of the written decision under s. PSC 128.32 (3) (a).

19 (h) Other materials that the political subdivision prepared to document its decision-making
20 process.

21 (i) A copy of any local ordinance cited in or applicable to the decision.

22 **(3) POST-CONSTRUCTION FILING REQUIREMENT.** Within 90 days of the date a wind
23 energy system commences operation, the developer or owner shall file with the political

1 subdivision and the commission an as-built description of the wind energy system, an accurate
2 map of the wind energy system showing the location of all wind energy system facilities,
3 geographic information system information showing the location of all wind energy system
4 facilities and current information identifying the developer and owner of the wind energy system.
5 A developer or owner shall in the filings under this subsection label each wind turbine location
6 with a unique identifier consistent with the information posted at the wind turbine location under
7 s. PSC 128.18 (1) (g).

8

9 **PSC 128.35 Modifications to an approved wind energy system. (1) MATERIAL CHANGE.**

10 (a) A developer may not make a material change in the approved design, location or construction
11 of a wind energy system without the prior written approval of the political subdivision that
12 authorized the wind energy system.

13 (b) A developer shall submit an application for a material change to an approved wind energy
14 system to the political subdivision that authorized the wind energy system.

15 **(2) REVIEW LIMITED.** A political subdivision that receives an application for a material
16 change to a wind energy system under sub. (1) (b) may not reopen the merits of the earlier
17 approval but shall consider only those issues relevant to the proposed change.

18

19 **PSC 128.36 Monitoring and complaint resolution. (1) MONITORING COMPLIANCE. (a)**

20 A political subdivision may establish a procedure to monitor compliance by the developer or
21 owner with any condition on an approved wind energy system or to assess when wind energy
22 system facilities are not maintained in good repair and operating condition. The procedure may

1 include timelines, provide for payment of reasonable fees for conducting an assessment, and
2 provide for notification to the public.

3 (b) A political subdivision may require a developer to pay for a third-party inspector to monitor
4 and report to the political subdivision regarding compliance with permit requirements during
5 construction. An inspector monitoring compliance under this paragraph shall also report to a
6 state permitting authority upon the state permitting authority's request.

7 **(2) COMPLAINT RESOLUTION.** (a) A developer or owner shall notify the political
8 subdivision of complaints that have not been resolved within 45 days of the date the developer or
9 owner received the original complaint.

10 (b) A political subdivision may establish a process for determining whether the developer or
11 owner has met the requirements of this chapter regarding complaint resolution.

12 **(3) MONITORING COMMITTEE.** (a) A political subdivision may establish a committee to
13 oversee resolution of complaints regarding a wind energy system. If a committee is established
14 under this paragraph, the political subdivision shall include on the committee a member who is a
15 local employee of a developer or owner of a wind energy system and at least one
16 nonparticipating landowner residing within one-half mile of at least one wind turbine in a wind
17 energy system.

18 (b) A committee established under par. (a) may do any of the following:

- 19 1. Maintain a record of all complaints brought to the monitoring committee.
- 20 2. Require the developer or owner to respond to any complaint forwarded to the developer by the
21 committee.
- 22 3. Recommend to the political subdivision a reasonable resolution to a complaint based upon the
23 committee's findings.

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Subchapter IV

Commission Procedure

PSC 128.40 Standards established by the Commission. (1) DETAILED APPLICATION

FILING REQUIREMENTS. The commission shall establish detailed application filing requirements for applications filed for political subdivision review of a wind energy system, which shall contain a detailed description of the information required to satisfy the filing requirements for applications under s. PSC 128.30 (2). The commission may revise these requirements as necessary. The commission shall make the filing requirements available to the public on the commission’s website.

(2) COMMISSION PROTOCOLS. (a) The commission may periodically create and revise measurement, compliance, and testing protocols as needed to provide standards for evaluating compliance with this chapter. These protocols may be created and revised to reflect current industry practice, changes in the state of the art, and implementation of new technologies. The commission shall make protocols under this subsection available to the public on the commission’s website.

(b) The Commission may establish protocols in any of the following areas:

1. Noise measurement, compliance and mitigation.
2. Stray voltage testing and remediation.
3. Shadow flicker compliance and mitigation.
4. Communications interference testing and mitigation.
5. Other areas where protocols are appropriate.

- 1 **PSC 128.41 Commission review. (1) APPEALS TO THE COMMISSION.** An appeal under s.
2 66.0401 (5) (b), Stats., shall be treated as a petition to open a docket under s. PSC 2.07, except
3 the time provisions of that section do not apply.
- 4 **(2) PETITIONER FILING REQUIREMENTS.** An aggrieved person under s. 66.0401 (5) (a),
5 Stats., may file a petition with the commission. The petition shall be submitted to the
6 commission in writing or filed using the commission's electronic filing system and shall contain
7 all of the following:
- 8 (a) The petitioner's name, address, and telephone number.
 - 9 (b) The name, address, and telephone number of the political subdivision that is the subject of the
10 petition.
 - 11 (c) A description of the wind energy system that is the subject of the petition.
 - 12 (d) A description of the petitioner's relationship to the wind energy system.
 - 13 (e) The information specified in s. PSC 2.07 (2).
- 14 **(3) POLITICAL SUBDIVISION FILING REQUIREMENTS.** (a) A political subdivision shall
15 file a certified copy of the information under s. 66.0401 (5) (c) Stats., using the commission's
16 electronic regulatory filing system.
- 17 (b) The commission may require the political subdivision to file up to 5 paper copies of the
18 record upon which it based its decision.
 - 19 (c) The commission may require the political subdivision to file additional information.
- 20 **(4) SERVICE AND NOTICE.** (a) A developer or owner submitting a petition under sub. (2)
21 (intro.) shall serve a copy of the petition on the political subdivision and on any other person
22 specified in s. PSC 2.07 (3).

1 (b) Any person other than a developer or owner submitting a petition under sub. (2) (intro.) shall
2 serve a copy of the petition on the developer or owner, the political subdivision, and any other
3 person specified in s. PSC 2.07 (3).

4 (c) A political subdivision that is subject to a petition under sub. (2) shall make a copy of the
5 petition available for public inspection and, in the manner in which it is required to publish
6 notice of a public meeting, publish notice of that petition.

7 **(5) COMMISSION HEARING DISCRETIONARY.** The commission may review a petition
8 under this section with or without a hearing.

9 **(6) ENVIRONMENTAL ANALYSIS.** A docket opened to review a petition under this section
10 is presumed to be a Type III action under s. PSC 4.10 (3).

11 **(7) STANDARD OF REVIEW.** The commission may reverse or modify a political
12 subdivision's decision or enforcement action if the decision or enforcement action does not
13 comply with this chapter or is otherwise unreasonable.

14 **(8) REMAND TO POLITICAL SUBDIVISION.** (a) Except as provided in par. (c), if the
15 commission remands any issue to the political subdivision, the political subdivision's review on
16 remand shall be completed no later than 90 days after the day on which the commission issues its
17 decision.

18 (b) A political subdivision may extend the 90-day period in par. (a) if the political subdivision
19 authorizes the extension in writing. Any combination of the following extensions may be
20 granted, except that the total amount of time for all extensions granted may not exceed 90 days:

21 1. An extension of up to 45 days if the political subdivision needs additional information to
22 determine issues on remand.

1 2. An extension of up to 90 days if a developer makes a material modification to the application
2 after remand.

3 3. An extension of up to 90 days for other good cause.

4 (c) If the commission remands a decision or enforcement action and directs the political
5 subdivision to issue a decision consistent with the commission's decision, the political
6 subdivision shall issue the decision within 30 business days.

7
8 **Subchapter V**

9 **Small Wind Energy Systems**

10 **PSC 128.50 Exemptions from this Chapter.** All of the provisions in this chapter apply to a
11 small wind energy system except ss. PSC 128.14(4)(c), PSC 128.14(5)(a), PSC 128.15(1)(b),
12 PSC 128.15(2), PSC 128.15(3)(b) through (3)(e), PSC 128.15(5), PSC128.16(2) through (4),
13 PSC 128.18(1)(g), PSC 128.18(2)(b) through (c), PSC 128.18(3)(b) through (c), PSC 128.18(4),
14 PSC 128.18(5)(b) through (f), PSC 128.18(6)(c) through (e), PSC 128.19(1)(c) through (e), PSC
15 128.19(3), PSC 128.19(4), PSC 128.30(2)(k) through (m), PSC 128.33(1) through (3), PSC
16 128.33(5) through (6), PSC 128,34(3), PSC 128.36(1)(b), and PSC 128.36(2).

17
18 **PSC 128.51 Modifications to this Chapter.** The following provisions in this chapter are
19 modified to apply to a small wind energy system as follows:

20 (1) Under s. PSC 128.10(1), the notice shall be filed at least 60 days before a developer files an
21 application to construct a wind energy system or 90 days before the planned start of construction
22 if no application process is required by the political subdivision and the notice shall be provided

1 to adjacent landowners and the political subdivisions within which the wind energy system may
2 be located.

3 **(2)** Under s. PSC 128.12, a developer shall make reasonable efforts to ascertain and
4 accommodate existing land uses and commercial enterprises located on adjacent nonparticipating
5 properties.

6 **(3)** Under s. PSC 128.13(1), a developer shall design and construct a wind energy system using
7 setback distances in Table 2. The owner of an adjacent nonparticipating residence or adjacent
8 occupied community building may waive the applicable turbine setback distances in Table 2.

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Table 2	
Setback Description	Setback Distance
Occupied Community Buildings	1.0 times the maximum blade tip height
Participating Residences	None
Nonparticipating Residences	1.0 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.0 times the maximum blade tip height
Public Road Right-of-Way	None
Overhead Communication and Electric Transmission or Distribution Lines - Not including utility service lines to individual houses or outbuildings	1.0 times the maximum blade tip height
Overhead Utility Service Lines - Lines to individual houses or outbuildings	None

- 1
- 2 (4) Under s. PSC 128.14(5)(b), a developer or owner shall provide notice of the requirement of
- 3 this section to adjacent nonparticipating residence or occupied community building before the
- 4 initial operation of the wind energy system.
- 5 (5) Under s. PSC 128.18(6)(a), an owner shall use reasonable efforts to resolve complaints
- 6 regarding a wind energy system and must comply with a complaint process established by the
- 7 political subdivision.

1 **(6)** Under s. PSC 128.18(6)(b), the written notice of the process for making complaints shall be
2 provided to all adjacent residents and landowners only.

3 **(7)** Under s. PSC 128.19(1), a wind energy system is presumed to be at the end of its useful life
4 if the wind energy system generates no electricity for a continuous 540 day period.

5 **(8)** Under PSC 128.30(2)(g), the information regarding the anticipated effects of the wind energy
6 system on existing land uses shall be for parcels adjacent to the wind energy system.

7 **(9)** Under s. PSC 128.30(5)(a), written notice of the filing of the application shall be provided
8 only to property owners and residents located adjacent to the wind energy system.

9 **(10)** Under s. PSC 128.30(6)(c), a political subdivision may hold at least one public meeting to
10 obtain comments on and to inform the public about a proposed wind energy system.

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