

- 1 ~~(a) A~~ person involved in acquiring the necessary rights, permits and approvals, ~~and/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. ~~“Developer” includes, prior to completion of construction of a wind energy~~
5 ~~system, an~~
- 6 ~~(b) An~~ owner ~~and an operator.~~
- 7 ~~(34)~~ “Decommissioning” means removal of all of the following:
- 8 (a) The above ground portion of a wind energy system, including wind turbines and related
9 facilities, except for access roads if removal has been waived by the property owner.
- 10 (b) All below ground facilities, except ~~for underground~~ the following:
- 11 1. Underground collector circuit facilities, ~~and.~~
- 12 2. Those portions of concrete structures four feet or more below grade.
- 13 ~~(45)~~ “DNR” means the Wisconsin department of natural resources.
- 14 ~~(5) “Large wind energy system” means a wind energy system with an installed nameplate~~
15 ~~capacity of greater than 100 kilowatts.~~
- 16 ~~(6)~~ “Maximum blade tip height” means the nominal hub height plus the nominal blade length of
17 a wind turbine, as listed in the wind turbine specifications provided by the wind turbine
18 manufacturer. If not listed in the wind turbine specifications, “maximum blade tip height” means
19 the actual hub height plus the blade length.
- 20 ~~(7)~~ “Nameplate capacity” means the nominal generating capacity of a wind energy system, as
21 listed in the wind turbine specifications provided by the wind turbine manufacturer.
- 22 ~~(8)~~ “Nonparticipating property” means real property for which ~~there is no~~ all of the following
23 apply:

1 | (a) The property is not subject to an agreement between the landowner and developer that
2 | permits the construction of any part of a wind energy system on the property.

3 | (b) The property is not the subject of an agreement that specifies in writing that the property is a
4 | participating property.

5 | (9) “Nonparticipating residence” means ~~an occupied permanent~~ residence located on a
6 | nonparticipating property.

7 | (10) “Occupied community building” means a school, church or similar place of worship,
8 | daycare facility or public library.

9 | (11) “Operator” means ~~the~~ person responsible for the operation and maintenance of a wind
10 | energy system, including agents, contractors, successors, or assigns.

11 | (12) “Owner” means any of the following:

12 | (a) A person with an ownership interest in a wind energy system, including agents, contractors,
13 | successors, or assigns, regardless of whether the person was involved in acquiring the necessary
14 | rights, permits and approvals or otherwise planning for the construction and operation of a wind
15 | energy system.

16 | (b) An operator of a wind energy system, including agents, contractors, successors, or assigns,
17 | regardless of whether the person was involved in acquiring the necessary rights, permits and
18 | approvals or otherwise planning for the construction and operation of a wind energy system.

19 | (13) “Participating property” means any of the following:

20 | (a) Real property which is subject to an agreement between the landowner and ~~the~~ developer,
21 | or owner,~~or operator~~ for the construction of any portion of a wind energy system on the
22 | property.

23 | (b) Real property that is the subject of an agreement that ~~includes~~does all of the following ~~terms:~~

1 1. Provides for the payment of monetary compensation to the landowner from ~~the~~ developer, ~~or~~
2 owner ~~or operator~~ regardless of whether any part of a wind energy system is constructed on the
3 property.

4 2. Specifies in writing that the landowner's acceptance of payment establishes the landowner's
5 property as a participating property.

6 ~~(14)~~ (14) "Participating residence" means residence located on a participating property.

7 (15) "Personal communications" includes wireless telecommunications, personal
8 communications service, radio, television, wireless internet service, and other systems used for
9 personal use purposes.

10 (16) "Political subdivision" has the meaning given in s. 66.0401 (1e) (c), Stats.

11 ~~(1517)~~ "Residence" includes a means an occupied permanent ~~occupied~~ personal residence,
12 hospital, community-based residential facility, residential care apartment complex or similar
13 facility, ~~and~~ or nursing home.

14 ~~(1618)~~ "Regulation" includes means any ordinance or resolution adopted by the governing body
15 of a political subdivision relating to a wind energy system ~~and any contract or agreement entered~~
16 ~~into by a political subdivision and a developer relating to a wind energy system.~~

17 *(17) Note: A "regulation" does not include a contract between a political subdivision and*
18 *a developer regarding a wind energy system, so long as the contract does not establish*
19 *any conditions of the political subdivision's approval of the wind energy system.*

20
21 (19) "Shadow flicker" means a pattern of changes in light intensity resulting from the shadow of
22 rotating wind turbine blades being moving shadows cast on a residence or an occupied
23 community building caused by sunlight shining through moving wind turbine blades resulting in
24 alternating changes in light intensity.

1 ~~(1820)~~ “Small wind energy system” means a wind energy system that has a total installed
2 nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that
3 have an installed nameplate capacity of not more than 100 kilowatts~~or less~~.

4 ~~(1921)~~ “Turbine host property” means real property which is subject to an agreement between a
5 landowner and a developer, ~~owner, or operator~~ for the construction~~placement~~ of one or more
6 wind turbines.

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

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

12 ~~(24) “Wind energy system easement”~~ means a written document that creates a legal interest in
13 real property that permits a developer or owner to place and construct a wind turbine or
14 associated facilities~~other wind energy system facility~~ on the property.

15 ~~(21) “Wind energy system”~~ has the meaning given in s. 66.0403 (1) (m), Stats.

16 ~~(22)~~~~(25) “Wind energy system emergency”~~ means a condition or situation at a wind energy
17 system that presents a significant threat of physical danger to human life or a significant threat to
18 property or a natural event that causes damage to wind energy system facilities.

19 ~~(26) “Wind energy system facility”~~ means any component of a wind energy system, such as a
20 wind turbine, collector circuit, access road, electric system interconnection facility, or an
21 operation and maintenance facility.

22 ~~(27) “Wind energy system lease”~~ means a written agreement between a landowner and a
23 developer, or owner ~~or operator~~ that establishes the terms and conditions associated with the

1 placement ~~or~~and construction of a wind turbine or ~~associated facilities~~other wind energy system
2 facility on a ~~landowner's~~landowner's property.

3
4 **PSC 128.02 Applicability. (1)** (a) Except as provided in par. (b) ~~or (c)~~, this chapter applies to
5 ~~wind energy systems.~~

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

7 ~~1. A a wind energy system for which a certificate of public convenience and necessity~~
8 ~~application has been filed with that does not require review by the commission before the~~
9 ~~effective date of this chapter ... [LRB inserts date] under either ss. 196.49 or 196.491, Stats.~~

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

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

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

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

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

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

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

1 ~~5.4.~~ A wind energy system proposed by a developer in an application filed before the effective
2 date of the chapter ... [LRB inserts date] with a political subdivision that has an established
3 procedure for review of ~~applications~~an application for a wind energy ~~system~~system.

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

10 ~~(2)(3)~~ (a) The commission shall consider whether the installation or use of a wind energy system
11 is consistent with the standards specified in this chapter when reviewing an application under s.
12 196.491, Stats., filed on or after the effective date of this chapter...[LRB inserts date].

13 (b) The commission may consider whether the installation or use of a wind energy system is
14 consistent with the standards specified in this chapter when reviewing an application under s.
15 196.49, Stats., filed on or after the effective date of this chapter...[LRB inserts date].

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

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

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

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

23 (c) Section PSC 128.19 (3).

1 [\(d\) Section PSC 128.19 \(5\) \(b\).](#)

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

5 [\(f\) Section PSC 128.30 \(6\) \(b\) and \(c\).](#)

6 [\(g\) Section PSC 128.31 \(2\)](#)

7 [\(h\) Section PSC 128.32 \(1\) \(a\)](#)

8 [\(i\) Section PSC 128.32 \(3\)](#)

9 [\(j\) Section PSC 128.32 \(5\) \(a\) to \(c\).](#)

10 [\(k\) Section PSC 128.33.](#)

11 [\(L\) Section PSC 128.34 \(1\) \(a\) and \(c\).](#)

12 [\(m\) Section PSC 128.35 \(1\) \(a\).](#)

13 [\(n\) Section PSC 128.36 \(1\).](#)

14 [\(o\) Section PSC 128.36 \(2\) \(a\).](#)

15 [\(p\) Section PSC 128.36 \(3\)](#)

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

20 [\(2\) A political subdivision may indirectly affect the installation or use of a wind energy system](#)
21 [by exercising its authorized authority over usual and customary local government matters, except](#)
22 [that a political subdivision may not do so to impose a restriction or condition that overtly applies](#)

1 only to a wind energy system, that applies to a wind energy system in purpose or effect, or that
2 disparately impacts a wind energy system compared with other types of structures.

3
4 **PSC 128.04 Enforcement. (1)** A political subdivision shall be responsible for enforcing its
5 wind energy system ordinance and permit provisions.

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

8
9 **Subchapter II**

10 **Developer Requirements**

11
12 **PSC 128.10 Development of a wind energy system; Notice requirements. ~~(1) GENERAL~~**
13 **~~NOTIFICATION REQUIREMENTS.~~** ~~(a)(1)~~ At least 27090 days before a developer files an
14 application to construct a wind energy system, ~~or 180 days before the planned start of~~
15 ~~construction of a wind energy system, whichever is earlier,~~ a developer shall use commercially
16 reasonable methods to provide written notice of the planned wind energy system to
17 landowners all of the following:

18 (a) Landowners within one mile of ~~the~~ planned wind ~~energy system and to all political turbine~~
19 host property.

20 (b) Political subdivisions within which the wind energy system may be located. ~~For~~

21 (c) Emergency first responders and air ambulance service providers serving a large political
22 subdivision within which the wind energy system, ~~a developer shall file a copy may be located.~~

23 (d) The Wisconsin department of ~~the notice with the~~ transportation.

- 1 (e) The commission.
- 2 (bf) The DNR.
- 3 (g) The Wisconsin department of agriculture, trade and consumer protection.
- 4 (h) The office of the deputy under secretary of defense.
- 5 (2) The developer shall include all of the following in the notice under ~~par. (a):~~
- 6 sub. (1-):
- 7 (a) A complete description of the wind energy system, including the number and size of the
- 8 planned wind turbines.
- 9 ~~2.~~(b) A map showing the planned location of ~~the~~all wind energy system facilities.
- 10 ~~3.~~(c) Contact information for the developer.
- 11 ~~4.~~(d) A list of all potential permits or approvals the developer anticipates may be necessary for
- 12 construction of the wind energy system.
- 13 ~~5.~~(e) Whether the developer is requesting a joint application review process under s. PSC
- 14 128.30_ (7) and the names of any other political subdivision that may participate in the joint
- 15 review process.
- 16 ~~(2) DNR NOTIFICATION. (a) At least 90 days before a developer files an application to~~
- 17 ~~construct a wind energy system, or 120 days before the start of construction if no application~~
- 18 ~~process is required by the political subdivision, the developer shall notify the DNR of the~~
- 19 ~~proposed wind energy system and the proposed location of all wind energy system facilities. A~~
- 20 ~~developer shall consult with the DNR and incorporate into wind energy system siting decisions~~
- 21 ~~required permitting considerations for wetlands, waterways, construction site erosion control,~~
- 22 ~~and threatened or endangered resources.~~

1 ~~(3) TRANSPORTATION NOTIFICATIONS. (a) At least 90 days before a developer files an~~
2 ~~application to construct a wind energy system, or 120 days before the start of construction if no~~
3 ~~application process is required by the political subdivision, the developer shall notify the~~
4 ~~Wisconsin Department of Transportation of the proposed wind energy system and the proposed~~
5 ~~location of all wind energy system facilities. The developer shall also notify the highway~~
6 ~~department of any political subdivision within which the wind energy system may be located.~~

7 ~~(b) For a large wind energy system, a developer shall prepare a transportation plan, in~~
8 ~~consultation with the Department of Transportation and affected political subdivisions, that~~
9 ~~minimizes impacts to existing traffic patterns, adheres to established road weight limits and~~
10 ~~provides for mitigating, assessing and repairing, at the developer, owner or operator's expense,~~
11 ~~road damage caused by construction and operation of the wind energy system.~~

12 ~~(5) EMERGENCY SERVICE NOTIFICATIONS. (a) At least 90 days before a developer files~~
13 ~~an application to construct a wind energy system, or 120 days before the start of construction if~~
14 ~~no application process is required by the political subdivision, the developer shall notify all of~~
15 ~~the following of the proposed wind energy system:~~

16 ~~1. Emergency first responders including fire, police, ambulance and air ambulance services~~
17 ~~servicing the proposed wind energy system location.~~

18 ~~2. Emergency first responders of a political subdivision within which the wind energy system~~
19 ~~may be located.~~

20 ~~(b) For a large wind energy system, the developer shall consult and coordinate with local first~~
21 ~~responders and air ambulance services regarding the development of an emergency evacuation~~
22 ~~plan, including the locations of alternate landing zones for emergency services aircraft. The~~

1 ~~developer shall file the final plan with the political subdivision, using confidential filing~~
2 ~~procedures if necessary.~~

3
4 **PSC 128.11 Real property provisions. (1) WIND ENERGY SYSTEM EASEMENT AND**
5 **WIND ACCESS EASEMENT.** (a) A property owner may grant another person a wind energy
6 system easement or wind access easement in the same manner and with the same effect as a
7 conveyance of an interest in real property. ~~A wind easement shall be in writing and shall be filed~~
8 ~~with the register of deeds for the county in which the property is located.~~

9 (b) A wind energy system easement or wind access easement shall be in writing and shall be
10 recorded with the register of deeds for the county in which the property is located. A wind
11 energy system easement or wind access easement shall include the term of the easement and a
12 legal description of the property subject to the ~~wind~~ easement.

13 **(2) WIND LEASE REQUIREMENTS REQUIRED PROVISIONS.** A wind energy system lease
14 shall include provisions that ~~required~~ all of the following:

15 (a) Require the developer, ~~or~~ owner ~~and operator of the wind energy system~~ to comply with all
16 federal, state and local laws and regulations applicable to the wind energy system.

17 (b) Permit the property owner to terminate the wind energy system lease if the portion of the
18 wind energy system located on the property ~~has not operated for a period of at least 18 months~~
19 ~~is~~ required to be decommissioned under s. PSC 128.19, unless the property owner receives the
20 normal minimum payments that would have occurred if the wind energy system had been
21 operating during that time. In this paragraph, “normal minimum payments” means the minimum
22 payments as provided in the wind energy system lease, or if not provided for in the wind energy

1 | system lease, payments at least equal to the periodic payments received by the property owner in
2 | the last full calendar year that the wind energy system was in full operation.

3 | (c) Specify the circumstances under which the developer, ~~owner or operator of the wind energy~~
4 | system or owner may withhold payments from the property owner.

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

7 | (3) ~~WIND-LEASE~~ PROHIBITIONS. A wind energy system easement, wind energy system
8 | lease, or wind access easement may not include provisions that requiredo any of the following:

9 | (a) Require the parties to maintain the confidentiality of any termsthe existence of ~~a proposed~~
10 | ~~wind the wind energy system easement, wind energy system~~ lease ~~except that the parties may~~
11 | ~~include a confidentiality agreement regarding the compensation terms contained in the final~~
12 | ~~signed wind lease, or wind access easement~~.

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

15 | (c) Make the property owner liable for any violation of federal, state or local laws and
16 | regulations by the developer, ~~owner or operator of the wind energy system or owner~~.

17 | (d) Make the property owner liable for any damages caused by the wind energy system or the
18 | operation of the wind energy system, including liability or damage to the property owner or to
19 | third parties.

20 | (4) MITIGATION AGREEMENTS. A developer, ~~or~~ owner ~~or operator~~ may not, as a condition
21 | of ~~acceptingreceiving~~ any benefit to settle a noise, signal interference, stray voltage ~~or~~, shadow
22 | flicker ~~mitigation issue, or other complaint~~, require a property owner to keep the existence of the

1 settlement confidential or require the property owner to waive any right to make a future claim
2 about an unrelated issue.

3

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

10

11 **PSC 128.13 Siting criteria.** (1) SETBACK DISTANCE AND HEIGHT REQUIREMENTS. (a)
12 A developer shall design and construct a wind energy system using the wind turbine
13 ~~setbacks~~setback 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
Wetlands; Ordinary High Water Mark of Lakes and Waterways	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

1

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 ~~participating nonparticipating~~ residence, ~~or~~ occupied community building ~~or~~
7 ~~nonparticipating residence~~ may waive the applicable wind turbine ~~setbacks~~ setback distances in
8 Table 1 for those structures, ~~except that the setback for~~ to a ~~large wind energy system may not~~
9 ~~be less than~~ minimum setback distance of 1.5 times the maximum blade tip height, ~~and the~~
10 ~~setback for a small wind energy system may not be less than.~~ The owner of a participating
11 residence may waive the applicable wind turbine setback distance in Table 1 for those structures
12 to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a
13 nonparticipating property may waive the applicable wind turbine setback distance in Table 1
14 from a nonparticipating property line.

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

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

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

1 subdivision may adopt wind turbine height or setback distance provisions that are based on, but
2 not more restrictive than, the federal aviation administration obstruction standards in CFR title
3 14, part 77.

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

8 (~~de~~) A political subdivision may not set height or setback distance limitations for a wind turbine
9 near a private use airport-

10 ~~(e) A political subdivision may not establish long term land use planning requirements or~~
11 ~~practices that preclude the construction of a wind turbine or a wind energy system within the~~
12 ~~political subdivision's jurisdiction.~~ heliport except as provided in par. (d).

13 ~~(3) LINE OF SIGHT COMMUNICATION TECHNOLOGIES STANDARD. The developer,~~
14 ~~owner or operator may not construct wind energy system facilities within the path of existing~~
15 ~~line of sight communication technologies. A political subdivision may require a developer to~~
16 ~~provide information showing that wind turbines and other wind energy system facilities will not~~
17 ~~be placed within the path of existing line of sight technologies.~~

18
19 ~~**PSC 128.14 Noise Criteria. (1**~~

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

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

3 | (23) NOISE STANDARD. (a) Compliance with noise limits shall be ~~measured or otherwise~~
4 | evaluated at the outside wall of the nonparticipating residence or occupied community building.
5 | If sound level measurements are used to evaluate compliance, those measurements shall be made
6 | ~~at~~ as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall
7 | as specified by the ~~resident-owner of the nonparticipating residence or occupied community~~
8 | building. The developer or owner may take additional measurements to evaluate compliance in
9 | addition to those specified by this section.

10 | (b) Except as provided in ~~sub. (3)(par. (c) and subs. (4) (a) and (d)~~, a developer or owner shall
11 | operate the wind energy system in a manner that does not exceed 50 dBA during daytime hours
12 | and 45 dBA during nighttime hours at the outside wall nearest to the closest wind turbine at any
13 | nonparticipating residence or occupied community building existing ~~on the date of approval of~~
14 | the wind energy system by or for which a building permit has been filed at the time the political
15 | subdivision.

16 | (3) MITIGATION. (a) receives notice of the planned wind energy system pursuant to s. PSC
17 | 128.10 (1). A developer, ~~owner or operator shall test for compliance with the noise limits upon~~
18 | ~~complaint by a nonparticipating resident. If the complaint relates to noise during nighttime~~
19 | ~~hours, the noise limit for those areas related to the complaint shall be reduced~~ responsible for
20 | monitoring building permit filings to 45 dBA during nighttime hours and the developer, owner or
21 | ~~operator shall ensure the seasonally reduced nighttime noise limit is met. For purposes of~~
22 | compliance with this paragraph, ~~nighttime hours are the hours between 10:00 p.m. to 6:00 a.m.~~
23 | daily, from April 1 to September 30.

1 ~~(b) Methods available for the developer, owner or operator to comply with noise limits shall~~
2 ~~include operational curtailment of a wind turbine.~~

3 ~~(c) A developer shall provide notification of the requirements of this section to potentially~~
4 ~~affected owners of nonparticipating residences and occupied community buildings before the~~
5 ~~initial operation of the wind energy system.~~

6 ~~(d)~~(c) In the event audible noise due to wind energy system operations contains a steady pure
7 tone, such as a whine, whistle, screech, or hum, the developer, or owner ~~or operator~~ shall
8 promptly take corrective action to permanently eliminate the cause of the steady pure tone.

9 ~~Operational curtailment of a wind turbine during nighttime hours may be used to comply with~~
10 ~~this paragraph until the cause of the steady pure tone can be permanently eliminated.~~ This
11 paragraph does not apply to rhythmic sound that may be generated by the rotation of wind
12 turbine blades. under normal operating conditions.

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

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

1 (c) A developer or owner shall evaluate compliance with ~~the noise limits sub. (3) (b)~~ as part of
2 pre- and post-construction noise studies. A developer, ~~or owner or operator~~ shall conduct pre-
3 and post-construction noise studies ~~as described in~~ under the most current version of the noise
4 measurement protocol. ~~as described in s. PSC 128.40 (2).~~

5 ~~(f) The commission shall establish a noise measurement protocol, which shall contain minimum~~
6 ~~requirements for pre and post construction noise studies. The commission may revise the noise~~
7 ~~measurement protocol as necessary. The commission shall make the noise measurement~~
8 ~~protocol available to the public on the commission's website.~~

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

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

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

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PSC 128.15 Shadow flicker. (1) **PLANNING.** (a) A developer shall consider shadow flicker in wind turbine siting decisions. A developer shall plan the proposed wind energy system ~~in a manner that minimizes~~ to minimize shadow flicker at ~~an a residence or~~ occupied community building ~~or participating or nonparticipating residence~~ to the extent reasonably practicable.

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

(2) SHADOW FLICKER STANDARD. ~~The~~ A developer or owner shall ~~design a operate the~~ wind energy system ~~so in a manner~~ that computer modeling indicates that no nonparticipating residence would experience does not cause more than 30 hours per year of shadow flicker. at a nonparticipating residence existing or for which a building permit has been filed at the time the political subdivision receives notice of the planned wind energy system under s. PSC 128.10 (1). A developer shall monitor building permit filings to ensure compliance with this subsection.

(3) MITIGATION. (a) A developer, ~~or owner~~ and operator shall work with an owner of a residence or occupied community building to mitigate the effects of shadow flicker. ~~to the extent~~ reasonably practicable.

(b) The developer or owner shall provide reasonable shadow flicker mitigation ~~for aat the~~ developer's or owner's expense for a nonparticipating residence experiencing ~~2520~~ 20 hours per year or more of shadow flicker.

(c) The developer or owner shall model shadow flicker and a nonparticipating residence is eligible for mitigation if computer modeling shows that shadow flicker ~~exceeds 25~~ experienced at the nonparticipating residence will be 20 hours per year ~~at the residence or more.~~ The owner of the nonparticipating residence is not required to document the actual hours per year of shadow

1 flicker if modeling indicates the nonparticipating residence is eligible for mitigation. A
2 nonparticipating residence that ~~exceeds 25~~experiences 20 hours per year or more of shadow
3 flicker based on records kept by the resident shall also be eligible for mitigation.

4 ~~(bd)~~ A developer, ~~or~~ owner ~~or operator~~ may provide shadow flicker mitigation for residences
5 experiencing less than 25 hours per year of shadow flicker, any residence or occupied community
6 building in addition to the mitigation required under par. (b).

7 ~~(ee)~~ The requirement under par. ~~(ab)~~ to mitigate shadow flicker ~~at an eligible residence~~ is
8 triggered when the developer, ~~or~~ owner ~~or operator~~ receives a complaint or request for
9 mitigation regarding shadow flicker: for an eligible nonparticipating residence. If shadow flicker
10 mitigation is required, the developer, ~~or~~ owner ~~or operator~~ shall allow the owner of the
11 nonparticipating residence to choose a preferred reasonable mitigation technique, including
12 installation of blinds or plantings at the ~~developer, owner~~developer's or ~~operator's~~owner's
13 expense.

14 ~~(d) A4) WAIVER. Upon request by a~~ developer, ~~or~~ owner ~~or operator~~ ~~shall provide notification~~
15 ~~to the owners of potentially affected residences of the provisions of this section before initial~~
16 ~~operation of the wind energy system.~~

17 ~~(e) An~~, an owner of an affected residence may or occupied community building may relieve the
18 developer or owner of the requirement to meet any of the shadow flicker requirements in this
19 section at the affected residence by written contract ~~waive the developer, owner or operator's~~
20 ~~requirement to provide shadow flicker mitigation.~~ with the developer or owner. Unless
21 otherwise provided in a contract signed by an owner of an affected residence or occupied
22 community building, a waiver by an owner of an affected residence or occupied community
23 building is an encumbrance on the real property and runs with the land until the wind energy

1 system is decommissioned, and shall be recorded with the register of deeds for the county in
2 which the property is located.

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

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

9
10 **PSC 128.16 Signal interference. (1) PLANNING. (a)** A developer shall consider ~~radio,~~
11 ~~television and cellular telephone signal~~ commercial communications and personal
12 communications interference in wind turbine siting decisions and shall use reasonable efforts to
13 avoid causing ~~such~~ interference with commercial communications and personal communications
14 to the extent practicable.

15 (b) The developer or owner may not construct wind energy system facilities within existing line-
16 of-sight communication paths that are used by government or military entities to provide services
17 essential to protect public safety. A political subdivision may ~~establish reasonable standards~~
18 ~~regarding radio, television, cellular telephone interference~~ require a developer to provide
19 information showing that wind turbines and other wind energy system facilities will be in
20 compliance with this paragraph.

21 ~~(2) RADIO AND TELEVISION~~ COMMERCIAL COMMUNICATIONS INTERFERENCE
22 MITIGATION. A developer, ~~or owner or operator~~ shall use ~~reasonable efforts~~ best commercially
23 available technology to mitigate ~~radio and television signal interference to the extent~~

1 ~~practicable~~ interference caused by a wind energy system with commercial communications in
2 ~~use at the time a wind energy system begins operation until the wind energy system is~~
3 ~~decommissioned~~. Before implementing ~~remedial~~ mitigation measures, the developer, ~~or~~ owner
4 ~~or operator~~ shall consult with affected ~~residents~~ parties regarding the preferred ~~reasonable~~
5 mitigation ~~solutions~~ solution for ~~radio and television~~ commercial communications interference
6 problems. A developer, ~~or~~ owner ~~or operator~~ shall mitigate ~~radio and television~~ commercial
7 ~~communications~~ interference ~~caused by the wind energy system~~ by making ~~a resident's~~ the
8 ~~affected party's~~ preferred reasonable mitigation solution ~~permanent~~ effective until the wind
9 ~~energy system is decommissioned, except as provided in sub. (4).~~

10 (3) ~~CELLULAR TELEPHONE~~ PERSONAL COMMUNICATIONS INTERFERENCE

11 MITIGATION. -A developer, ~~or~~ owner ~~or operator~~ shall use ~~reasonable efforts~~ best
12 ~~commercially available technology~~ to mitigate ~~cellular telephone signal~~ interference ~~to the extent~~
13 ~~practicable~~. The developer, owner or operator shall work with affected cellular providers to
14 ~~provide adequate coverage in the affected area~~. Acceptable mitigation techniques for lost or
15 ~~weakened cellular telephone~~ with personal communications ~~include installing an additional micro~~
16 ~~cell, cell, or base station facility to fill in the affected area~~. The micro cell, cell, or base station
17 ~~may be installed on~~ in use at the time a structure within the wind energy system ~~begins operation~~
18 ~~caused by a wind energy system until the wind energy system is decommissioned~~. Before
19 ~~implementing mitigation measures, the developer or owner shall consult with affected parties~~
20 ~~regarding the preferred mitigation solution for personal communications interference problems~~.
21 ~~A developer or owner shall mitigate personal communications interference caused by the wind~~
22 ~~energy system by making the affected party's preferred reasonable mitigation solution effective~~
23 ~~until the wind energy system is decommissioned, except as provided in sub. (4).~~

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

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

1 (2) RESULTS OF TESTING. A developer, ~~owner, or operator~~ or owner and the electric
2 distribution company shall provide to commission staff the results of all stray voltage testing in
3 writing.

4 (3) REQUIREMENT TO RECTIFY PROBLEMS. ~~Developer, A developer or owner or~~
5 ~~operator~~ shall work with the electric distribution utilities company and farm ~~owners~~ owner to
6 rectify any stray voltage problems ~~arising from~~ attributable to the construction and operation of
7 the wind energy system: in compliance with the stray voltage protocol established under s. PSC
8 128.40 (2).

9
10 **PSC 128.18 Construction and operation. (1) PHYSICAL CHARACTERISTICS. (a)**

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

16 (b) A developer, ~~or owner or operator~~ shall ensure that a wind turbine has a neutral conventional
17 or unobtrusive finish.

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

- 1 (d) A developer, ~~or owner or operator of a wind turbine~~ shall take appropriate measures to
2 ensure that a wind turbine is not readily climbable except by authorized personnel.
- 3 (e) ~~An A developer or owner or operator of a wind energy system~~ shall ensure that all wind
4 turbine access doors ~~to the wind turbines~~ and electrical equipment are locked when authorized
5 personnel are not present.
- 6 (f) A developer, ~~or owner or operator of a wind energy system~~ shall place appropriate warning
7 signage on or at the base of each wind turbine.
- 8 (g) ~~An A developer or owner or operator of a wind energy system~~ shall post and maintain up-to-
9 date signs containing a twenty-four hour emergency contact telephone number, information
10 identifying the owner or operator, and sufficient information to identify the location of the sign
11 within the wind energy system. ~~An A developer or owner or operator~~ shall post these signs at
12 every intersection of a wind energy system access road with a public road and at each wind
13 turbine location.
- 14 (h) A developer or owner shall clearly mark guy wires and supports for a wind energy system,
15 meteorological tower or other device for measuring wind speeds so that the wires and supports
16 are visible to low flying aircraft under fair weather conditions.
- 17 (2) ELECTRICAL STANDARDS. (a) A developer, ~~or owner or operator~~ shall construct,
18 maintain, and operate collector circuit facilities in a manner that complies with the national
19 electrical safety code and ~~Wis. Admin. Code~~ ch. PSC 114 and shall construct, maintain, and
20 operate all wind energy system facilities in a manner that complies with the national electrical
21 code.
- 22 (b) A developer or owner shall construct collector circuit facilities for a wind energy system
23 underground to the extent practicable.

1 (c) A developer, ~~or~~ owner ~~or operator~~ shall establish an inspection schedule for all overhead
2 collector circuits to ensure that third-party facilities such as cable television and
3 telecommunications cables are not attached and bonded to overhead collector circuit grounding.

4 If third-party facilities are found attached to the overhead collector facilities, developer or owner
5 shall ensure that the third-party facilities are promptly removed.

6 (3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS. (a) A developer,
7 or owner or operator shall construct, operate, repair, maintain and replace wind energy system
8 facilities as needed to keep the wind energy system in good repair and operating condition, and
9 in a manner that provides for the safeguarding of individuals from injury.

10 (b) Except for the area physically occupied by the wind energy system ~~and related~~ facilities,
11 ~~including permanent access roads,~~ a developer or owner shall restore the topography, soils and
12 vegetation of the project area to original condition after construction is complete considering any
13 modifications needed to comply with DNR requirements, unless otherwise provided in a contract
14 signed by an affected landowner.

15 (c) A developer, ~~or~~ owner ~~or operator of a wind energy system~~ shall carry general liability
16 insurance relating to claims for property damage or bodily injury arising from the construction or
17 operation of the wind energy system and shall include turbine host property owners as additional
18 insured persons on the policy.

19 (4) ~~EMERGENCY PROCEDURES. TRANSPORTATION PLAN.~~ (a) ~~In this subsection, “A~~
20 developer shall prepare a transportation plan for construction of the wind energy system
21 emergency” means a condition or situation at a in consultation with the department of
22 transportation and affected political subdivisions that does all of the following:
23 1. Minimizes impacts to existing traffic patterns.

- 1 2. Takes into account highway safety.
- 2 3. Plans for the movements of oversize and overweight equipment on highways.
- 3 4. Identifies any access points that may be needed between private property and state trunk
- 4 highways or local roads during construction or operation of the wind energy system ~~that presents~~
- 5 a significant threat of physical danger to human life or a significant threat to property. “Wind
- 6 energy system emergency” includes natural events that cause damage to.
- 7 5. Identifies any wind energy system ~~facilities~~ facility to be located within state trunk highways
- 8 or local roads.
- 9 6. Provides the means for mitigating, assessing and repairing, at the developer’s expense, road
- 10 damage caused by construction and operation of the wind energy system.
- 11 (b) A political subdivision may require a developer to include in a transportation plan under par.
- 12 (a) the proposed type and period of use of local roads, a proposed process for mitigation of any
- 13 damage to local roads related to construction and operation of the wind energy system, and a
- 14 process for pre- and post-construction review by the political subdivision.
- 15 (5) EMERGENCY PROCEDURES. (a) An owner ~~or operator~~ shall notify a political subdivision
- 16 within 24 hours of a wind energy system emergency ~~the occurrence~~ and ~~the~~ nature of ~~the~~ wind
- 17 energy system emergency. ~~within 24 hours of the wind energy system emergency.~~
- 18 (eb) An owner ~~or operator~~ shall establish and maintain liaison with a political subdivision and
- 19 with fire, police, and other appropriate first responders serving ~~within one-half mile of the wind~~
- 20 ~~energy system to do all of the following:~~
- 21 ~~1. Learn the responsibility and resources of each government organization or first responder~~
- 22 ~~entity that would respond to a wind energy system emergency.~~

- 1 ~~2. Acquaint the political subdivision and fire, police and other appropriate first responders~~
2 ~~servicing within one half mile of the wind energy system with the owner and operator's abilities to~~
3 ~~respond to a wind energy system emergency and provide annual training for appropriate officials~~
4 ~~regarding responding to a wind energy system emergency until the wind energy system has been~~
5 ~~decommissioned.~~ create effective emergency plans that include all of the following:
- 6 ~~3. Identify~~ 1. A list of the types of wind energy system emergencies ~~subject to that require~~
7 notification under par. (b).
- 8 ~~4. Plan how the owner or operator and fire, police, and other first responders can engage in~~
9 ~~mutual assistance to minimize hazards to life and property.~~
- 10 ~~(d) An owner or operator of a large~~.
- 11 2. Current emergency contact information for first responders and for the wind energy system
12 shall establish owner, including names and phone numbers.
- 13 3. Procedures for handling different types of wind energy system emergencies, including written
14 procedures that provide for shutting down the wind energy system or a portion of the system, as
15 appropriate, ~~in~~.
- 16 4. Duties and responsibilities of the owner and of first responders in the event of a wind energy
17 system emergency. ~~The procedures shall provide for all of the following:~~
- 18 ~~1. Establishing and maintaining adequate means of communication with a political subdivision~~
19 ~~and with fire, police, and other appropriate first responders.~~
- 20 ~~2. Advising an affected political subdivision of a wind energy system~~ 5. An emergency.
- 21 ~~3. Prompt and effective response to a notice of any of the following types of emergencies:~~
- 22 ~~a. Mechanical failure of wind turbine facilities.~~
- 23 ~~b. Fire associated with a wind turbine or associated facilities.~~

- 1 ~~e. Emergency situations requiring the~~ evacuation of a person or persons from the wind energy
2 ~~system.~~
- 3 ~~d. Natural disaster.~~
- 4 ~~e. Police actions, such as a request or order by police or fire officials to interrupt operation plan~~
5 ~~for the area within one-half mile of any wind energy system facility~~ due to an, including the
6 location of alternate landing zones for emergency services aircraft.
- 7 ~~4. Actions directed toward protecting people first and then property.~~
- 8 ~~5. Making safe any actual or potential hazard to people or property.~~
- 9 ~~6. Notifying a(c) The owner shall review the emergency plan at least annually in collaboration~~
10 ~~with fire, police and other appropriate first responders to update and improve the emergency plan~~
11 ~~as needed.~~
- 12 (d) The owner shall distribute current copies of the emergency plan to the political subdivision
13 and fire, police, and other appropriate first responders of a wind energy system emergency and
14 coordinating with planned and actual responses during an emergency as identified by the political
15 subdivision.
- 16 ~~(e) A political subdivision may require the owner to provide annual training for fire, police and~~
17 ~~other appropriate first responders regarding responding to a wind energy system emergency until~~
18 ~~the wind energy system has been decommissioned.~~
- 19 (f) An owner or operator of a large wind energy system shall do all of the following:
- 20 1. Furnish its operator, supervisors and employees who are responsible for emergency action a
21 copy of the latest current edition of the emergency procedures established under ~~par. (d)~~ this
22 subsection to ensure compliance with those procedures.

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

3 ~~3. 2. Train the appropriate operating personnel to ensure they have knowledge of the emergency~~
4 ~~procedures and verify that the training is effective.~~

5 ~~3.~~ As soon as possible after the end of a wind energy system emergency, ~~the owner, or operator~~
6 ~~shall~~ review employee activities to determine whether the procedures were effectively followed.

7 ~~(5) COMPLAINT PROCESS.~~ (6) COMPLAINT PROCESS. (a) A developer or owner shall
8 use reasonable efforts to resolve complaints regarding a wind energy system and shall investigate
9 complaints regarding a wind energy system at the developer's or owner's expense. A developer
10 or owner shall develop a complaint resolution process in compliance with this subsection.

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

21 ~~(b) A developer, owner or operator~~ (c) Upon receipt of a complaint, a developer or owner shall
22 provide the complainant with a copy of the notice described in par. (b). Within 30 days of
23 receiving a complaint, a developer or owner shall provide an initial response to the complainant.

1 A developer or owner shall make a good faith effort to resolve complaints within 45 days of
2 receiving a complaint.

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

11 (ee) A developer, ~~or~~ owner ~~or operator~~ shall make any complaint log available to the
12 commission upon request.

13
14 **PSC 128.19 Decommissioning.** (1) REQUIREMENT TO DECOMMISSION. ~~(a) Except as~~
15 ~~provided in par. (e), the~~ (a) The owner ~~or operator~~ of a wind energy system shall decommission
16 and remove a wind energy system when the system is at the end of its useful life.

17 ~~(b) A developer shall include in an application to construct a wind energy system a~~
18 ~~decommissioning and site restoration plan that provides reasonable assurances that the~~
19 ~~developer, owner or operator will be able to comply with this section.~~

20 ~~(e)~~ (b) A wind energy system is presumed to be at the end of its useful life if the wind energy
21 system generates no electricity for a continuous ~~6-month~~ 360 day period. This presumption may
22 be rebutted ~~by~~ for a period of 180 days after the date the wind energy system is presumed to be at
23 the end of its useful life if the owner ~~or operator~~ by submitting ~~submits~~ to the political subdivision

1 a plan outlining the steps and schedule for returning the wind energy system to service within ~~6~~
2 ~~months~~180 days after the ~~date the wind energy system is presumed to be at the~~ end of its useful
3 life.

4 ~~(c)~~ Upon application by the owner ~~or operator, under par. (b) and except as provided in par. (d), a~~
5 political subdivision shall grant an extension of the time period for returning the wind energy
6 system to service by ~~an one or more~~ additional ~~6-month period~~180 day periods if the owner ~~or~~
7 ~~operator~~ demonstrates ~~an ongoing good faith effort to return it is likely~~ the wind energy system ~~to~~
8 ~~service. A wind energy system that generates no electricity for a continuous 18-month period is~~
9 ~~irrebuttably presumed to be at will operate again in the end future and any of its useful life. the~~
10 following occur:

11 ~~(d) When decommissioning is required, 1. The owner submits a plan to the owner or operator~~
12 ~~shall begin decommissioning within 9 months after~~political subdivision that demonstrates an
13 ongoing good faith effort to return the wind energy system ~~has reached the end of its useful life.~~
14 ~~The owner or operator shall complete decommissioning to service and removal of outlines the~~
15 steps and schedule for returning the wind energy system ~~within 18 months after to service in a~~
16 reasonable period of time, including by repairing, replacing or repowering the wind energy
17 system ~~has reached~~facilities as necessary to generate electricity.

18 2. The owner demonstrates that ~~the end of its useful life.~~

19 ~~(e) A political subdivision may grant a temporary deferral of the requirement to decommission~~
20 ~~and remove a wind energy system if it is likely the wind energy system will operate again in the~~
21 future and if any of the following apply:

22 1. The wind energy system is part of a prototype or other demonstration project being used for
23 ongoing research or development purposes.

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

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

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

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

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

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

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

19 (3) FINANCIAL RESPONSIBILITY. (a) A political subdivision may require a developer, or
20 owner or operator of a large wind energy system shall with a nameplate capacity of one megawatt
21 or larger to provide information to the political subdivision that demonstrates proof of the
22 owner's financial ability to comply with requirements regarding decommissioning in sub-
23 (4) before commencing operation of the wind energy system. A developer or owner may

1 establish proof of financial responsibility to comply with this section by bond, deposit, escrow
2 account, irrevocable letter of credit, other financial commitment acceptable to the political
3 subdivision or some combination of these financial assurances.

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

9 (c) A political subdivision may condition the political subdivision's approval of a wind energy
10 system on the developer's or owner's compliance with par. (a), however a political subdivision
11 may not deny an application to construct a wind energy system for failure to prove the owner's
12 financial ability to comply with the requirements of this section if the developer meets the
13 requirements in par. (a).

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

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

22 (e) A political subdivision may require a developer or owner to submit to the political
23 subdivision a substitute instrument under par. (a) upon the occurrence of an event which raises

1 material concerns regarding the continued viability of the previously-submitted financial
2 assurance.

3 (4) SITE RESTORATION. ~~If a large(a) Except as provided in par. (b), if a~~ wind energy system
4 was constructed on land owned by a person other than the owner ~~or operator~~ of the ~~large~~-wind
5 energy system, the owner ~~or operator~~ of the wind energy system shall ensure that the property is
6 restored ~~so that the topography, soils, and vegetation are consistent with or similar to that of~~
7 ~~immediately adjacent properties at the time of decommissioning.~~ If a large to preconstruction
8 condition including any modifications needed to comply with DNR requirements, unless
9 otherwise provided in a contract signed by an affected landowner.

10 (b) If a wind energy system was constructed on a brownfield, as defined in s. 560.13 (1) (a),
11 Stats., the owner ~~or operator~~ shall restore the property to eliminate effects caused by the ~~large~~
12 wind energy system. , except for the effects of environmental remediation activities, as defined in
13 s. 560.13(1) (d), Stats.

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

17 (b) Within ~~12 months~~360 days of receiving a notice of decommissioning, a political subdivision
18 shall determine whether the wind energy system has satisfied the requirements of subs. (1)(a)
19 and (4).

20
21 **Subchapter III**

22 **Political Subdivision Procedure**

- 1 | **PSC 128.30 Application and notice requirements. (1) ~~CONTENTS OF AN APPLICATION:~~**
- 2 | ~~If approval by~~ REQUIRED. A developer shall file an application to construct a political
- 3 | ~~subdivision is required for a proposed~~ wind energy system ~~or expansion of an existing with all~~
- 4 | political subdivisions within which the wind energy system, ~~a~~ will be located.
- 5 | **(2) CONTENTS OF AN APPLICATION. A** developer ~~seeking the political subdivision's~~
- 6 | ~~approval~~ shall complete and file with the political subdivision an application that includes all of
- 7 | the following:
- 8 | (a) Wind energy system description and maps showing the locations of all proposed wind energy
- 9 | facilities.
- 10 | (b) Technical description of wind turbines and wind turbine sites.
- 11 | (c) ~~Construction Timeline and~~ process and timeline for constructing the wind energy system.
- 12 | (d) ~~Impact~~ Information regarding anticipated impact of the wind energy system on local
- 13 | infrastructure.
- 14 | (e) Information regarding noise attributable to the wind energy system.
- 15 | (f) Information regarding shadow flicker anticipated to be attributable to the wind energy system.
- 16 | (g) ~~Effects~~ Information regarding the anticipated effects of the wind energy system on existing
- 17 | land uses within one-half mile of the wind energy system.
- 18 | ~~(h) Effects on air traffic.~~
- 19 | ~~(i) Effects~~ (h) Information regarding the anticipated effects of the wind energy system on airports
- 20 | and airspace.
- 21 | (i) Information regarding the anticipated effects of the wind energy system on line-of-sight
- 22 | communications.

1 (j) A list of all state and federal permits required to construct and operate the wind energy
2 system.

3 ~~(k) Except as provided in sub. (3), information required~~A copy of any transportation plan
4 developed under s. PSC 128.~~40-18~~ (4).

5 ~~(L) A copy of all emergency plans developed in collaboration with appropriate first~~
6 ~~responders under s. PSC 128.18 (5) (b). A developer or owner may file plans using confidential~~
7 ~~filing procedures as necessary.~~

8 ~~(m) A decommissioning and site restoration plan that provides reasonable assurances that the~~
9 ~~developer or owner will be able to comply with s. PSC 128.19.~~

10 ~~(n) A representative copy of all notices issued under ss. PSC 128.10 (1) (a), 128.18 (6) (b) and~~
11 ~~128.30 (5).~~

12 ~~(p) Any other information necessary to understand the proposed wind energy system.~~

13 ~~(r) Information related to the wind energy system requested by the political subdivision.~~

14 ~~(2)3~~ ACCURACY OF INFORMATION. The developer shall ensure that information contained
15 in an application is accurate and internally consistent.

16 ~~(3) SMALL WIND ENERGY SYSTEM APPLICATIONS. For a small wind energy system, a~~
17 ~~developer is not required to file the information required under sub. (1)(k).~~

18 (4) DUPLICATE COPIES. A political subdivision may specify a reasonable number of copies to
19 be filed. Each copy shall include all worksheets, maps, and other attachments included in the
20 application. A political subdivision may permit a developer to file an application electronically.

21 (5) NOTICE TO PROPERTY OWNERS. (a) On the same day a developer files an application
22 for a ~~large~~ wind energy system, the developer shall ~~mail or deliver, under s. 66.0401 (4) (a) 3.,~~
23 Stats., use commercially reasonable methods to provide written notice of the filing of the

1 application to property owners and residents located within one-half mile of the proposed ~~turbine~~
2 ~~host properties or location of~~ any wind energy system facility. The notification shall include all
3 of the following:

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

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

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

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

22 ~~(e) Except as provided in this paragraph, a(c) A~~ political subdivision shall hold at least one
23 public meeting to obtain comments on and to inform the public about an application. ~~A political~~

1 ~~subdivision is not required to hold a public comment meeting on an application to construct a~~
2 ~~small wind energy system that is to be located entirely on land owned by the developer. a~~
3 ~~proposed wind energy system.~~

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

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

21 **PSC 128.31 Application completeness. (1) ~~INCOMPLETE~~COMPLETE APPLICATIONS. (a)**

22 A political subdivision shall determine whether an application is complete applying the detailed

1 application filing requirements established by the commission under [ss. PSC 128.30 \(2\) and](#)
2 [128.40- \(1\)](#).

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

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

12 [\(d\)](#) Subsequent 45-day completeness review periods shall begin the day after the political
13 subdivision receives responses to all items identified in the notice.

14 [\(e\)](#) If a political subdivision does not make a completeness determination within the applicable
15 review period, the application is considered to be complete.

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

21
22 **PSC 128.32 Political subdivision review of a wind energy system. (1) APPROVAL BY**
23 **POLITICAL SUBDIVISION.** (a) Except as provided in par. (b), a political subdivision may

1 require a developer to obtain approval from the political subdivision before constructing any of
2 the following:

- 3 1. A wind energy system.
- 4 2. An expansion of an existing or previously-approved wind energy system.

5 (b) A political subdivision may not require a developer to obtain approval from the political
6 subdivision under this chapter for any of the following:

- 7 1. A wind energy system placed in operation before the effective date of this chapter ... [LRB
8 inserts date].
- 9 2. A wind energy system for which construction began before the effective date of this chapter
10 ...[LRB inserts date].
- 11 3. A wind energy system approved by the political subdivision before the effective date of this
12 chapter ... [LRB inserts date].
- 13 4. A wind energy system proposed by a developer in an application filed before the effective date
14 of the chapter ... [LRB inserts date] with a political subdivision that has an established procedure
15 for review of applications for wind energy systems.

16 (2) STANDARD FOR APPROVAL. (a) A political subdivision may not unreasonably deny an
17 application for a wind energy system or impose unreasonable conditions.

18 (b) For a political subdivision that does not have in effect an ordinance as described in s. PSC
19 128.03 (1) and s. 66.0401 (4) (g), Stats., an application submitted under s. PSC 128.30 (1) shall
20 be considered automatically approved if any of the following occur:

- 21 1. The political subdivision does not enact an ordinance before the first day of the 4th month
22 after the political subdivision receives the application.

1 2. The political subdivision notifies the applicant in writing that it does not intend to enact an
2 ordinance, as described in s. 66.0401 (4) (a) 2., Stats.

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

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

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

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

14 (4) EFFECT OF OWNERSHIP CHANGE ON APPROVAL. Approval by a political subdivision
15 of a wind energy system remains in effect if there is a change in the owner ~~or operator~~ of the
16 wind energy system. A political subdivision may require a developer, an owner ~~or operator~~ to
17 provide timely notice of any change in the owner ~~or operator~~ of the wind energy system.

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

21 (b) A political subdivision's fee or reimbursement requirement shall be based on the actual and
22 necessary cost of the review of the wind energy system application, and may include the cost of
23 services necessary to review an application that are provided by outside engineers, attorneys,

1 planners, environmental specialists, and other consultants or experts. The political subdivision
2 may by ordinance set standardized application fees based on the size and complexity of a
3 proposed wind energy system.

4 (c) A political subdivision may ~~only charge a fee or~~ require a developer of a wind energy system
5 to submit up to 50 percent of the total estimated amount of the fee or reimbursement for the wind
6 energy system application under par. (a) before issuing a written decision under sub. (3) (a) if the
7 political subdivision gives written notice to the developer of its intent to do so within ~~60~~10 days
8 of the date the ~~political subdivision receives a~~ application is deemed complete and the notice
9 ~~under s. PSC 128.10(1) and identifies~~ contains an estimate of the amount of the fee and the
10 relevant reimbursement requirements.

11 ~~(d) The total fee or reimbursement permitted under this subsection for a wind energy system may~~
12 ~~not exceed 0.01 percent of the estimated cost of a small wind energy system; 0.03 percent of the~~
13 ~~estimated cost of a large wind energy system with an installed nameplate capacity of 20~~
14 ~~megawatts or less, and; 0.05 percent of the estimated cost of a large wind energy system with an~~
15 ~~installed nameplate capacity of greater than 20 megawatts.~~

16 ~~(e) A political subdivision may require a developer to submit up to 50 percent of the total fee or~~
17 ~~total estimated reimbursement under this subsection at the time the application is submitted.~~

18 ~~(f)(d)~~ A political subdivision may not charge a developer, an owner ~~or operator~~ an annual fee or
19 other recurring fees to operate or maintain a wind energy system.

20
21 **PSC 128.33 Political subdivision permitted provisions.** ~~(1) PERMITTED PROVISIONS.~~ A
22 political subdivision may ~~includedo~~ any of the following in an ordinance or establish any of the

1 following as a ~~regulation or as a~~ condition for approval of an application to construct a wind
2 energy system:

3 ~~(a1)~~ Require information describing how the developer has ~~incorporated~~ consulted with the DNR
4 and other natural resource agencies, whether the developer has implemented current DNR and
5 US Fish and Wildlife Service guidelines for avoiding and minimizing potential impacts to
6 natural ~~resource features and~~ resources and whether the developer has incorporated any project-
7 specific DNR recommendations regarding natural resources not subject to specific DNR permits.

8 ~~(b2)~~ Require a developer, ~~or~~ owner ~~or operator of a large wind energy system~~ to cooperate with
9 any ~~state-wide or regional~~ study coordinated by the commission or the DNR of the effects of
10 wind energy systems on ~~bat or migratory bird~~ wildlife populations, ~~including providing access to~~
11 ~~sites for post-construction bird and bat mortality studies.~~

12 ~~(c)~~ For a large wind energy system, may require a developer to include in a transportation plan
13 ~~the proposed type and period of use of local roads, a proposed process for mitigation of any~~
14 ~~damage to local roads related to construction and operation of the large wind energy system, and~~
15 ~~provision for a pre- and post-construction review by the political subdivision.~~

16 ~~(d)~~ For a large wind energy system, may require a developer ~~(3)~~ Require a developer or owner to
17 offer agreements that include annual monetary compensation to the owner of a nonparticipating
18 residence if the residence is within one-half mile of a planned wind turbine site. If a political
19 subdivision requires a developer or owner to offer such an agreement, the ~~amount of annual~~
20 ~~monetary compensation shall be calculated by multiplying~~ political subdivision may not require
21 the ~~number of installed wind turbines in the wind energy system located within one-half mile of~~
22 ~~each nonparticipating residence by a per-wind turbine compensatory amount, with annual~~
23 ~~payments escalating annually.~~ The total annual payment offered to any owner of a

1 nonparticipating residence ~~may not to~~ exceed the amount paid by the developer, ~~or~~ owner ~~or~~
2 ~~operator~~ to any owner of a turbine host property receiving payment under a wind energy system
3 lease for one wind turbine. An agreement offered under this paragraph shall specify in writing
4 whether the landowner's acceptance of payment establishes the landowner's property as a
5 participating property under this chapter.

6 ~~(e) For a large wind energy system, may require a developer, owner or operator to provide the~~
7 ~~political subdivision with a list of the tax parcel numbers of tracts of residential real property less~~
8 ~~than 5 acres in size located within one mile of a wind turbine at the time the wind energy system~~
9 ~~is constructed. The political subdivision may use this list to track the sale prices of residential~~
10 ~~real properties of less than 5 acres in size within one mile of a wind turbine.~~

11 ~~(f) Specify provisions regarding blasting to protect against groundwater contamination, including~~
12 ~~notification requirements, timing limitations, plan requirements, and whether blasting may occur~~
13 ~~within the political subdivision.~~

14 ~~(g) May establish a procedure for assessing when wind energy system facilities are not~~
15 ~~maintained in good repair and operating condition. The procedure may include timelines,~~
16 ~~provide for payment of fees for conducting an assessment, and provide for notification to the~~
17 ~~public.~~

18 ~~(h) May require the developer, owner or operator of a large wind energy system~~(4) Require the
19 developer to submit to the political subdivision copies of all necessary state and federal permits
20 and approvals before the start of construction.

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

1 ~~(i) Establish reasonable requirements for the manner in which a developer, owner or operator of~~
2 ~~a large wind energy system may demonstrate proof of financial responsibility to ensure the~~
3 ~~availability of funds sufficient to keep the wind energy system in good repair and operating~~
4 ~~condition and to comply with decommissioning requirements.~~

5 ~~(2) PROHIBITED PROVISIONS. A political subdivision may not include any of the following~~
6 ~~as a regulation or as a condition for approval of an application to construct a wind energy~~
7 ~~system:~~

8 ~~(a) Require a developer, owner or operator to conduct a study of property value impacts.~~

9 ~~(b) Except as provided in sub. (1)(d), require a developer, owner or operator to provide monetary~~
10 ~~compensation to landowners relating to property values.~~

11 ~~(c) Impose a penalty on an owner or operator of a wind energy system if the owner or operator~~
12 ~~satisfies the requirements of this chapter~~information describing how the developer has consulted
13 with the department of agriculture, trade and consumer protection regarding ~~keeping the wind~~
14 ~~energy system in good operating condition~~guidelines for avoiding and minimizing potential
15 impacts to agricultural productivity and ~~the requirements regarding decommissioning~~whether the
16 developer has incorporated any project-specific recommendations.

17 ~~(d) Restrict wind turbine sites based on impacts to aerial spraying on participating properties.~~

18 ~~(e) Establish structure lighting requirements for a wind energy system that conflict with~~
19 ~~standards established by the federal aviation administration.~~

20
21 **128.34 Record of decision.** (1) RECORDKEEPING. (a) A political subdivision shall keep a
22 complete written record of its decision-making ~~related~~relating to an application for a wind
23 energy system.

1 | [\(b\)](#) If a political subdivision denies an application, the political subdivision shall keep the record
2 | for at least seven years following the year in which it issues the decision.

3 | [\(c\)](#) If a political subdivision approves an application, the political subdivision shall keep the
4 | record for at least seven years after the year in which the wind energy system is
5 | decommissioned.

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

7 | (a) The approved application and all ~~subsequent~~ additions or amendments to the application.

8 | (b) A representative copy of all notices issued under ss. PSC 128.10 (1) (a), 128.18 ~~(5)~~ [\(a6\)](#) [\(b\)](#)
9 | and 128.30 (5).

10 | (c) A copy of any notice or correspondence that the political subdivision issues related to the
11 | application.

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

16 | (e) Copies of any correspondence or evidentiary material that the political subdivision considered
17 | in relation to the application, including copies of all written public comments filed under s. PSC
18 | 128.30 ~~(6)~~ [\(b\)](#).

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

20 | (g) A copy of the written decision under s. PSC 128.32 ~~(3)~~ [\(a\)](#).

21 | (h) Other materials that the political subdivision prepared to document its decision-making
22 | process.

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

1 (3) POST-CONSTRUCTION FILING REQUIREMENT. Within 90 days of the date a wind
2 energy system commences operation, the developer, ~~or~~ owner ~~or~~ operator shall file with the
3 political subdivision and the commission an as-built description of the wind energy system, an
4 accurate map of the wind energy system showing the location of ~~each~~ all wind ~~turbine~~ energy
5 system facilities, geographic information system information showing the location of ~~each~~ all
6 wind ~~turbine~~ energy system facilities and current information ~~regarding~~ identifying the developer;
7 ~~and~~ owner ~~and~~ operator of the wind energy system. A developer or owner shall in the filings
8 under this subsection label each wind turbine location with a unique identifier consistent with the
9 information posted at the wind turbine location under s. PSC 128.18 (1) (g).
10

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

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

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

17 (2) REVIEW LIMITED. A political subdivision that receives an application for a material
18 change to a wind energy system under sub. (1) (b) may not reopen the merits of the earlier
19 approval but shall consider only those issues relevant to the proposed change.
20

21 **PSC 128.36 Monitoring and ~~mitigation-complaint resolution~~. (1) MONITORING**

22 ~~COMMITTEE COMPLIANCE.~~ (a) A political subdivision may establish a ~~committee to monitor~~
23 ~~complaints and procedure~~ to monitor compliance by the developer, ~~or~~ owner ~~or~~ operator with

1 any ~~conditions to condition on~~ an approved ~~large~~ wind energy system or to ~~monitor~~ assess when
2 wind energy system facilities are not maintained in good repair and operating condition. The
3 procedure may include timelines, provide for payment of reasonable fees for conducting an
4 assessment, and provide for notification to the public.

5 (b) A political subdivision may require a developer to pay for a third-party inspector to monitor
6 and report to the political subdivision regarding compliance with any local agreements. If
7 a permit requirements during construction. An inspector monitoring committee is established, the
8 political subdivision compliance under this paragraph shall include on the monitoring committee
9 a member who is a local employee of a developer, owner or operator of a wind energy system
10 and at least one nonparticipating landowner residing within one mile of the large wind energy
11 system also report to a state permitting authority upon the state permitting authority's request.

12 ~~(2) DUTIES. A monitoring committee may do all of the following:~~

13 ~~(a) Maintain a record of all complaints brought to the monitoring committee.~~

14 ~~(b) Require the developer, owner or operator to investigate, at the developer, owner or operator's~~
15 ~~expense, any complaint forwarded by the committee.~~

16 ~~(c) Recommend a reasonable resolution to a complaint based upon the committee's findings.~~

17 ~~(3) COMPLAINT RESOLUTION. A developer, owner or operator shall use reasonable efforts~~
18 ~~to resolve complaints. A developer, owner or operator shall make a good faith effort to resolve~~
19 ~~complaints within 45 days of receiving a complaint. A developer, owner or operator~~ (a) A

20 developer or owner shall notify the political subdivision of complaints that have not been
21 resolved within 45 days of the date the developer, or owner ~~or operator~~ received the original
22 complaint. ~~A political subdivision shall establish a process for determining whether the~~

1 ~~developer, owner or operator has met the requirements of this chapter regarding complaint~~
2 ~~resolution.~~

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

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

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

12 1. Maintain a record of all complaints brought to the monitoring committee.

13 2. Require the developer or owner to respond to any complaint forwarded to the developer by the
14 committee.

15 3. Recommend to the political subdivision a reasonable resolution to a complaint based upon the
16 committee's findings.

17
18 **Subchapter IV**

19
20 **Commission Procedure**

21
22 ~~PSC 128.40 Detailed application requirements.~~ PSC 128.40 Standards established by the
23 Commission. (1) DETAILED APPLICATION FILING REQUIREMENTS. The commission

1 shall establish detailed application filing requirements for applications filed for political
2 subdivision review of a wind energy system, which shall contain a detailed description of the
3 information required to satisfy the filing requirements for applications under s. PSC 128.30~~(4)~~
4 (2). The commission may revise these requirements as necessary. The commission shall make
5 the filing requirements available to the public on the commission's website.

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

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

13 1. Noise measurement, compliance and mitigation.

14 2. Stray voltage testing and remediation.

15 3. Shadow flicker compliance and mitigation.

16 4. Communications interference testing and mitigation.

17 5. Other areas where protocols are appropriate.

18

19 **PSC 128.41 Commission review. (1) APPEALS TO THE COMMISSION.** An appeal under s.
20 66.0401 (5) (b), Stats., shall be treated as a petition to open a docket under s. PSC 2.07, except
21 the time provisions of that section do not apply.

22 **(2) PETITIONER FILING REQUIREMENTS.** An aggrieved person under s. 66.0401 (5) (a),
23 Stats., may file a petition with the commission. The petition shall be submitted to the

1 commission in writing or filed using the commission's electronic filing system and shall contain
2 all of the following:

3 (a) The petitioner's name, address, and telephone number.

4 (b) The name, address, and telephone number of the political subdivision that is the subject of the
5 petition.

6 (c) A description of the wind energy system that is the subject of the petition.

7 (d) A description of the petitioner's relationship to the wind energy system.

8 (e) The information specified in s. PSC 2.07 (2).

9 **(3) POLITICAL SUBDIVISION FILING REQUIREMENTS.** (a) A political subdivision shall
10 file a certified copy of the information under s. 66.0401 (5) (c) Stats., using the commission's
11 electronic regulatory filing system.

12 (b) The commission may require the political subdivision to file up to 255 paper copies of the
13 record upon which it based its decision.

14 (c) The commission may require the political subdivision to file additional information.

15 **(4) SERVICE AND NOTICE.** (a) A developer, ~~or~~ owner ~~or operator~~ submitting a petition under
16 sub. (2) (intro.) shall serve a copy of the petition on the political subdivision and on any other
17 person specified in s. PSC 2.07 (3).

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

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

1 | (5) COMMISSION HEARING ~~DESCRETIIONARY~~DISCRETIONARY. The commission may
2 | review a petition under this section with or without a hearing.

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

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

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

12 | (b) ~~Under this paragraph, a~~ political subdivision may extend the 90-day period in par. (a) if the
13 | political subdivision authorizes the extension in writing. Any combination of the following
14 | extensions may be granted, except that the total amount of time for all extensions granted may
15 | not exceed 90 days:

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

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

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

21 | (c) If the commission remands a decision or enforcement action and directs the political
22 | subdivision to issue a decision consistent with the commission's decision, the political
23 | subdivision shall enter issue the decision within 2030 business days.

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Subchapter V

Small Wind Energy Systems

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

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

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

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

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

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

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 5 (4) Under s. PSC 128.14(5)(b), a developer or owner shall provide notice of the requirement of
 6 this section to adjacent nonparticipating residence or occupied community building before the
 7 initial operation of the wind energy system.

1 (5) Under s. PSC 128.18(6)(a), an owner shall use reasonable efforts to resolve complaints
2 regarding a wind energy system and must comply with a complaint process established by the
3 political subdivision.

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

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

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

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

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

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