

**REVISED STRAW PROPOSAL**

**HIGHLIGHTED ITEMS need further discussion/clarification – no clear majority opinion on ballots**

**Wind Energy System Size Categories**

- Establish a category for small wind energy systems:
  - Made up of turbines not exceeding 100 kW in size each
  - Maximum system size somewhere between 300 kW and 500 kW in total
- Establish a category for community wind energy systems:
  - Maximum system size \_\_\_ MW in total
  - Some requirement(s) regarding local ownership or local use
- Some of the requirements [procedural, application, other?] imposed on small and community wind energy systems would be different from the requirements imposed on large wind energy systems
  - For community wind, this would be appropriate for procedural requirements, such as application requirements
- In general, the requirements for large wind should apply to community wind except where specified in the rules

**Safety Setbacks**

- Establish minimum safety setbacks from nonparticipating property lines, participating residences, nonparticipating residences and occupied community buildings
  - Measuring from the center of the turbine, these minimum safety setbacks should be 1.1 times the maximum blade tip height of the wind turbine
- Safety setbacks from a nonparticipating property line should be waivable by the property owner
- Safety setbacks from a nonparticipating residence or occupied community building should not be waivable
- Safety setbacks from a participating residence should / should not be waivable
- Use Federal Aviation Administration guidelines for siting requirements around public airports
- Private airports used by air ambulances should not be treated as public airports for establishing siting requirements

**Noise**

- Establish noise performance standards that apply uniformly to all categories of wind energy systems as a supplement to (i.e., in addition to) the safety setbacks specified above
  - Standards should be absolute noise limits (as opposed to noise limits relative to the ambient noise level)
  - Limit the noise attributable to the wind energy system to between 45 dBA at night and 50 dBA during the day (year round), and 50 dBA at all times
  - If ambient noise levels exceed the standard, the standard should be [the same/ \_\_\_ dBA above ambient]
- Noise performance standards should apply to nonparticipating residences and occupied community buildings
- Property owners should be allowed to waive the noise performance standards

- Do / do not specify by rule the measures that may / must be taken when noise standards are exceeded:
  - The Council is still discussing what measures should be specified, if any
- Require the use of the Public Service Commission’s noise measurement protocol
  - Require pre-construction noise testing at typical ambient conditions
  - Require / recommend post-construction noise testing at full or nearly full turbine power
  - Require / recommend noise measurement in winter as well as summer for all / large / community / small wind energy systems

**Shadow Flicker**

- Establish shadow flicker performance standards that apply to large and community wind energy systems, but not small wind energy systems, as a supplement to (i.e., in addition to) the safety setbacks specified above
  - Shadow flicker falling on any affected nonparticipating residence should not exceed [ ] hours per year under any circumstances
  - Mandatory mitigation should be required if shadow flicker would exceed [ ] hours per year on affected nonparticipating residence absent mitigation measures
- Shadow flicker performance standards should apply to nonparticipating residences that are already constructed or [have filed a building permit at the time the wind energy system application is submitted / other?]
- Do / do not specify by rule the measures that may / must be taken when shadow flicker standards are exceeded or mitigation is required:
  - The Council is still discussing what measures should be specified, if any
- Property owners should be allowed to waive the shadow flicker performance standards
- Require developers to include a plan describing shadow flicker mitigation measures in their application
- Developers of large wind energy systems should be required to use shadow flicker computer modeling in designing the wind energy system, but small and community wind energy systems should not be required to use such modeling. It is not necessary to establish standards through the rules for required shadow flicker computer modeling.
- The Council agrees that if computer modeling shows eligibility for shadow flicker mitigation, a landowner should not be required to produce any other documentation of shadow flicker to be eligible for mitigation. Council members agree that additional mitigation beyond that required by the rules should also be allowed.
- The rules should not address a landowner’s tax liability for taxes assessed due to installation of shadow flicker mitigation measures

**Signal Interference**

- Require developers to use reasonable efforts to avoid causing television, radio, cellular telephone and line-of-sight communications interference
- The rules should not include a definition of what constitutes a “reasonable effort” to avoid signal interference
- Require developers or owners of wind energy systems to remedy television, radio and cellular telephone signal interference for the life of the wind energy system

### **Complaint Resolution**

- The Public Service Commission should develop a complaint resolution process for use at the local level / for the PSC's review of complaints
  - The Public Service Commission should / should not set forth specifics of a complaint resolution process in the wind siting rules / outside the context of the wind siting rules
  - Some Council members would like to see the Public Service Commission develop a process, and have the local government develop a process as well
- The political subdivision should be the entity responsible for implementing the PSC complaint resolution process and seeing that complaints are resolved
- The rules should not specify a list of the types of complaints that will be considered
- The rules should require dismissal of complaints from the complaint resolution process if the complaint stems from something clearly allowed pursuant to the political subdivision's approval
- The rules should clarify PSC's authority to review complaints
- The rules should clarify how stakeholders may engage in PSC's complaint review process
- The rules should / should not establish a required time period [of \_\_\_ days] for dealing with complaints

### **Commission Review**

- In general, the Council is comfortable with the draft rules' approach to the PSC review process; however, additional clarification is needed in the rules regarding the PSC's authority to review complaints and how stakeholders may engage in the PSC's review process (see above)

### **Property Value Protection**

- Developers should not be required to offer a property value protection plan
- If the Commission were to require developers to offer a property value protection plan, such a requirement should be offered only to nonparticipating landowners adjacent to turbine host properties, and that the requirement should only apply to large wind energy systems

### **Leases and Easements**

- The rules should not specify mandatory content requirements that must be included in leases and easements
- The rules should not require developers to give general public notice prior to signing any binding leases or easements
- Real estate broker licenses or licenses to conduct real estate activities should not be required for people engaging in lease and easement discussions with landowners on behalf of a developer
- If the rules do not contain any or only a limited number of provisions addressing mandatory content for wind leases and easements, the Council should establish recommendations for wind lease and easement best practices

### **Decommissioning**

- Decommissioning a wind energy system should be required when it has not been operational for a continuous period of \_\_\_ months
- Decommissioning requirements should include removal of turbine foundations to a depth of at least four feet below grade

- Decommissioning requirements should include removal of other underground structures in addition to the foundation to a depth of at least four feet below grade, with the exception of underground collector lines
- The rules should require restoration of the land following decommissioning to [preconstruction condition to extent feasible / preconstruction topography including replace topsoil & meet NRCS recommendations / other]
- If the rules require removal of turbine foundations and underground improvements, require a plan and an estimation of costs for the removal of these structures to be included in the application to the political subdivision
- Require an applicant to provide the political subdivision with proof of financial assurance to complete decommissioning in a form and amount based on a cost estimate by a mutually agreeable third-party
- Require a filing upon completion of decommissioning
- Stipulate penalties [using political subdivision's existing powers / for actual cost to political subdivision / other] if decommissioning requirements are not met

### **Construction and Operation Standards**

- Retain the provisions in the draft rules regarding physical characteristics of a wind energy system:
  - Prohibit advertising material or signage on wind turbines, with certain exceptions
  - Prohibit attaching to a turbine any flag, decorative sign, streamer, pennant, ribbon, spinner, fluttering, or revolving devices except for safety features or wind monitoring devices
- Retain provisions in the draft rules regarding electrical standards and construction and maintenance standards
- Require the wind energy system owner to provide as-built specifications for the wind energy system to the political subdivision granting approval

### **Emergency Procedures**

- Set forth default areas of responsibility for providing emergency services at the wind energy system:
  - The owner of the wind energy system should be responsible for providing services starting at the base of the wind turbine
- Require the applicant to provide a copy of a project summary and site plan to the local emergency services provider, as designated by the political subdivision reviewing the application
- Require the applicant to cooperate with local emergency services providers in developing an emergency response plan for the wind energy system upon the request of the political subdivision

### **Conflict of Interest**

- The rules should not impose requirements regarding conflicts of interest for political subdivision regulation of wind energy systems. The requirements of Wisconsin Statutes Chapter 19, Subchapter III (Code of Ethics for Public Officials) already exist and are sufficient.
- If the rules address conflicts of interest, they should just require compliance with Wis. Stat. Ch. 19, Subch. III.

### Notification Requirements

- For small wind energy systems, require the developer to use commercially reasonable efforts to notify the political subdivision and adjacent landowners, but notifying the PSC is not necessary
- For large wind energy systems and community wind energy systems, require the developer to use commercially reasonable efforts to notify the political subdivision and landowners adjacent to proposed turbine host properties, as well as the PSC, in advance of filing an application
- For large wind energy systems only, also require developers to notify landowners within \_\_\_\_\_ [specify distance such as 1 mile]
- The general public notification period for a large wind energy system should be somewhere in the range of 90 days before filing a construction application to 30 days before filing or 60 days before commencement of construction
- The general public notification period for a small wind energy system should be in the range of 30 to 60 days before filing a construction application

### Application Process

- In general, retain the approach in the draft rules regarding the application process requirements
- Require applications to include plans and specifications for the wind turbines being built
- Allow political subdivisions to request information in an application pursuant to detailed application filing requirements specified by the PSC, as well as any other information necessary to understand the proposed wind energy system
- Allow a political subdivision to request additional information of an applicant only if the information is required under the rules [additional clarification needed? compare to previous bullet]

### Political Subdivision Process

- In general, retain the approach in the draft rules regarding the political subdivision process
- Prohibit a political subdivision from placing any condition or regulation on a wind energy system except as specifically authorized by the wind siting rules [additional clarification needed regarding other powers normally exercised by political subdivisions?]
- Limit the fees that a political subdivision can charge for reviewing an application to [0.1% of project cost / actual cost to review / other]

### Stray Voltage

- Require pre-construction and post-construction testing and compliance with the PSC's Phase 2 stray voltage testing protocol
- Require developers/owners to remedy problems
- The rules should address who (developer/owner v. utility) is responsible for ensuring the required stray voltage testing is conducted, and who is financially responsible for each aspect of stray voltage testing