

**REVISED STRAW PROPOSAL**

**HIGHLIGHTED ITEMS need further discussion/clarification – no clear majority vote**

**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 of 300 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 [procedural, application, other] requirements imposed on small wind energy systems would be different from the requirements imposed on large wind energy systems
- Some of the [procedural, application, other?] requirements imposed on community wind energy systems would be different from the requirements imposed on large wind energy systems
- 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
- For large wind, safety setbacks from a residence (participating or nonparticipating) or occupied community building should not be waivable
- For small wind, safety setbacks from a residence (participating or nonparticipating) or occupied community building should 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 45 dBA at night and 50 dBA during the day (year round)
- Noise performance standards should apply to nonparticipating residences and occupied community buildings
- Property owners should be allowed to waive the noise performance standards
- Do not specify by rule the measures that may or must be taken when noise standards are exceeded
- Require the use of the Public Service Commission's noise measurement protocol
- Require pre-construction noise testing at typical ambient conditions
- Require noise testing to the extent technically feasible and appropriate within the limits of currently available sound measurement equipment, as determined by PSC staff

**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 40 hours per year under any circumstances
  - Mandatory mitigation should be required if shadow flicker would exceed 20 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 general public notification of the wind energy system is given
- Do not specify by rule the measures that may or must be taken when shadow flicker standards are exceeded or mitigation is required
- 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**

- Utilize hierarchy of complaint venues:
  - (1) as contemplated in draft rules, require the developer to establish a complaint resolution process and use reasonable efforts to resolve complaints,
  - (2) allow the political subdivision to use its existing authority to deal with complaints it receives and for complaints not resolved by developer, and
  - (3) allow the PSC to use its existing procedures for processing direct complaints & appeals of complaint decisions.
- Complainants should not be required to go through all complaint venues & should be able to go straight to the PSC if they choose in accordance with Act 40. Other legal remedies may exist in addition to the venues described here.

- Require developer to provide notice of these avenues for complaint when giving other general public notice (as contemplated in draft rules), and also at the time someone makes a complaint.
- The political subdivision should be responsible for implementing a 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 / should not** establish a required time period **[of \_\_\_ days]** for dealing with complaints

### **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 18 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
- 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 applicant to provide the political subdivision with proof of financial assurance to complete decommissioning in form and amount based on a cost estimate by a mutually agreeable third-party
- Require a filing upon completion of decommissioning
- Penalties for not complying with decommissioning requirements should be handled using political subdivision's existing powers

**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 1 mile
- The general public notification period for a large wind energy system should be 90 days before filing a construction application
- The general public notification period for a small wind energy system should be 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

**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; this prohibition should not apply to the exercise of a political subdivision's general authority over matters usual and customary to the political subdivision
- For large wind, limit the fees that a political subdivision can charge for reviewing an application to the actual cost to review up to 0.1% of project cost
- For small wind, limit the fees that a political subdivision can charge for reviewing an application to the actual cost to review up to 0.05% of project cost

**Stray Voltage**

- Require developer/owner to offer pre-construction and post-construction stray voltage testing using PSC's Phase 2 stray voltage testing protocol
- Require developer/owner to pay for the stray voltage testing, give the utility the opportunity to perform the testing, and if the utility refuses to perform, then the developer is responsible for getting the testing done
- Require developer/owner to remedy stray voltage problems attributable to the wind project