

STRAW PROPOSAL AMENDMENT WORKSHEET

Wind Energy System Sizes – General

1. **Should the rules establish rules for community wind energy systems that are different than rules for small wind and large wind?**
 - Yes
 - No, community wind should be treated the same as large wind
2. **If the rules establish a category for community wind, in what areas should the requirements for community wind be different than what is required for a large wind energy system?**
 - Notification requirements
 - Application requirements
 - Mitigation requirements
 - Other _____
3. **If the rules establish a category for community wind, how should small wind be defined?**
 - A wind energy system up to 100 kW in size, whether one or more turbines
 - A wind energy system up to 300 kW in size, made up of one or more turbines each no greater than 100 kW in size
 - A wind energy system up to 500 kW in size, made up of one or more turbines each no greater than 100 kW in size
4. **If the rules establish a category for community wind, how should community wind be defined?**
 - Up to 2 large wind turbines (over 100 kW) owned by or where the output is used by a local resident, business, school or unit of government
 - One large turbine (over 100 kW) for personal or “community” on-site generation and/or educational purposes
 - Other _____
5. **If the rules establish a category for community wind, how should large wind be defined?**
 - A wind energy system that is not a small wind energy system and is not a community wind energy system
 - Large wind should include community wind, except where otherwise specified (all rules for large wind should apply to community wind, except where otherwise noted)

Setbacks, Noise & Shadow Flicker – General

6. **The rules should: (choose as many as apply)**
 - Set a minimum safety setback
 - Set a noise performance standard
 - Set a shadow flicker standard
7. **Should the rules require or allow for (at political subdivision’s discretion) different noise and shadow flicker performance standards for community wind v. large wind?**
 - Yes, different requirements
 - Yes, allow at political subdivision’s discretion
 - No

Minimum Safety Setbacks

8. Should the rules establish a minimum safety setback?

- Yes
 No

9. If the rules establish a minimum safety setback, from what should the turbine be set back?

- Nonparticipating landowner's property line
 Nonparticipating residence
 Occupied community building
 Participating residence
 Other

10. If the rules establish a minimum safety setback from a property line, should the landowner be able to waive the property line setback?

- Yes
 No
 Yes, but only for small wind turbines (up to 100 kW)

11. If the rules establish a minimum safety setback from a residence, should the landowner be able to waive the setback from the residence?

- Yes
 No
 Yes, but only for small wind turbines (up to 100 kW)

12. If the rules establish a minimum safety setback, should the exact distance of the setback depend on the maximum blade tip height of the wind turbine (how tall the turbine is with its blade extended to the maximum height)?

- Yes
 No

13. If the rules establish a minimum safety setback from a property line, what should the distance be for a large wind turbine (over 100 kW), when measured from the center of the turbine?

- 1.1 times the maximum blade tip height
 _____ times the maximum blade tip height
 2500 feet
 Other _____

14. If the rules establish a minimum safety setback from a nonparticipating residence, what should the distance be for a large wind turbine (over 100 kW) when measured from the center of the turbine?

- 1.1 times the maximum blade tip height
 _____ times the maximum blade tip height
 2500 feet
 2600 feet
 Other _____

15. If the rules establish a minimum safety setback, what should the distance be for small wind turbines (up to 100 kW) when measured from the center of the turbine?

- 1.1 times the maximum blade tip height
 1.0 times the maximum blade tip height
 _____ times the maximum blade tip height
 Other _____

16. Should the rules require or allow for (at political subdivision's discretion) different setback requirements for community wind?

- Yes, different requirements: _____
- Yes, allow at political subdivision's discretion
- No, community wind should have the same setback requirements as large wind
- No, community wind should have the same setback requirements as small wind

Noise – General

17. If the rules establish noise performance standards, should the rules have the same noise performance standards for all wind energy systems, small, community and large?

- Yes
- No

18. What type(s) of noise standards should the rules specify?

- Setback distances only
- Both setback distances and decibel limits
- Decibel limits only

19. If the noise standards include decibel limits, should the decibel limits be absolute (i.e., xx dBA) or relative (i.e., ambient + yy dBA)?

- Absolute
- Relative
- Both

20. If the noise standards include decibel limits, should the limits vary seasonally?

- Yes
- No

21. If the noise standards include decibel limits, to what should the limits apply?

- Nonparticipating residences and occupied community buildings
- Anywhere on a nonparticipating property
- Other _____

22. If the noise standards include absolute decibel limits, what should the limits be?

- 55 dBA
- 50 dBA
- 45 dBA on summer nights, 50 dBA at all other times
- 45 dBA at night (year round), 50 dBA during day
- 30 - 35 dBA
- Other

23. If the noise standards include absolute decibel limits, should they provide for the instance when the ambient noise exceeds the absolute decibel limit imposed on the wind energy system?

- Yes, in that case the standard should be ambient dBA plus 5 dBA
- Yes, in that case the standard should be: _____
- No, the rules do not need to address this

24. If the noise standards include relative decibel limits, what should the limits be?

- 5 dBA above ambient
- 10 dBA above ambient
- Other

25. If the noise standards include a setback distance, what should the distance be?
- 1000 feet
 - 2500 feet
 - 2600 feet
 - Other _____
26. Should the rules require use of a standard noise measurement protocol?
- Yes, the PSC protocol
 - Yes, the PSC protocol and additional standards
 - Yes, but not the PSC protocol, instead: _____
 - No
27. Should the rule require pre-construction noise testing at typical ambient sound levels?
- Yes
 - No
28. Should the rule require post-construction noise testing at full turbine power [if this is possible]?
- Yes
 - No
29. Should the rule require noise measurement readings in winter as well as summer?
- Yes
 - No

Shadow Flicker – General

30. Should the Council recommend a shadow flicker performance standard as a best practice?
- Yes
 - No
31. Should the rules require a standalone shadow flicker performance standard (performance standard only; no setback specifically designed to address shadow flicker)?
- Yes, shadow flicker should be addressed solely by a performance standard
 - No, shadow flicker should be address by something other than just a performance standard
32. If the rules do not require a standalone shadow flicker performance standard, how should shadow flicker be addressed?
- Shadow flicker-related setback requirement only
 - Combination shadow flicker-related setback and performance standard
 - Other _____
33. If the shadow flicker standards include a setback distance, what should the distance be?
- 1000 feet
 - 1100 feet
 - 2500 feet
 - 2600 feet
 - Other _____
34. If the rules require a shadow flicker performance standard, what type of wind energy systems should it apply to?
- Large wind energy systems
 - Community wind energy systems
 - Small wind energy systems

35. If the rules **require a shadow flicker performance standard**, what must a developer do to **plan to comply** with the standard?
- Existing computer modeling offers a satisfactory method of measurement at this time.
 - Existing computer modeling needs to be improved via set, uniform standards
 - Other _____
36. If the rules **require a shadow flicker performance standard**, what should the standard **take into account**?
- All nonparticipating landowners (whether or not a residence exists)
 - Nonparticipating residences existing at the time of the wind energy system application
 - Nonparticipating residences existing at the time of the wind energy system approval
 - Nonparticipating residences not yet constructed at the time of the application but for which a building permit has been filed prior to the wind energy system application
 - Nonparticipating residences not yet constructed at the time of the approval but for which a building permit has been filed prior to the wind energy system approval
 - Nonparticipating residences constructed after the wind energy system receives approval for which no building permit was filed prior to the wind energy system approval
 - Other _____
37. If the rules **require a shadow flicker performance standard**, what should it **include**?
- Properties (which would include existing and potential residences and outbuildings)
 - Existing residences only
 - Existing residences and outbuildings only
38. If the rules **require a shadow flicker performance standard**, **what** should the standard be?
- No shadow flicker may occur on affected areas
 - Shadow flicker may not exceed 25 hours per year
 - Shadow flicker may not exceed 40 hours per year
 - Shadow flicker may not exceed 45 hours per year
 - Shadow flicker may not exceed 50 hours per year
 - Other _____
39. If the rules **require a shadow flicker performance standard**, can the requirement be **waived** by an affected landowner (i.e. for compensation)?
- Yes
 - No
40. If the rules **require a shadow flicker performance standard**, to what extent should **mitigation** of shadow flicker be **required**?
- No mitigation required; mitigation at developer's/owner's discretion
 - Mitigation required for exceeding _____ hours per year
 - Other _____

Siting – Other

41. Should the rules treat **private airports at medical facilities** used for air ambulance purposes as a public airport for purposes of establishing siting criteria around the private airport?
- Yes
 - No
42. Should the rules **require** that siting requirements be **science-based**?
- Yes
 - No

Mitigation – General

43. Should the rules establish **requirements** that apply to new residences or buildings **not yet constructed**?

- Yes
- Yes, but only for which a building permit has been filed prior to the wind energy system application filing
- Yes, but only for which a building permit has been filed prior to the wind energy system receiving approval
- No

44. Should the rules address **other future potential** (not construction-related) **uses** of leased properties and non-participating properties?

- Yes, to address these issues: _____
- No

Mitigation – Noise & Shadow Flicker

45. Should the rules **require specific mitigation measures** when shadow flicker or noise **standards** are **exceeded**?

- Yes, shut down the turbine as needed to prevent exceeding performance standards
- Yes, other _____
- No

46. When mitigation is **required** for a residence, what residences **qualify** for mitigation?

- All residences
- Only those in existence when the wind energy system requested approval
- Only those in existence when the wind energy system received approval
- Only those in existence when the wind energy system was constructed
- Other _____

47. Should the rules address potential **tax liability of a landowner** relating to **mitigation** measures received by the landowner?

- Yes, the rules should: _____
- No, the rules should not address this

48. Should the rules **require** wind energy system **applications** to include a [minimum?] **plan** for **mitigating** shadow flicker?

- Yes
- No

Mitigation – Signal Interference

49. Should the rules provide a **definition** of what constitutes “**reasonable effort**” to mitigate signal interference?

- Yes, it should be defined as: _____
- No

Complaint Resolution

50. Should the Council **recommend** complaint resolution process **best practices**?

- Yes
 No

51. Should the rules **define the types of complaints** that will be considered by the entity responsible for complaint resolution?

- Yes
 No

52. Should the rules **require** political subdivisions to establish a **complaint resolution procedure** pursuant to a **protocol** to be established by the Public Service Commission?

- Yes
 No

53. Should the rules **require** that a complaint must be **resolved** within 90 days?

- Yes
 No, the rules should not place a hard time limit on complaint resolution
 No, the rules should impose a different time limit of: _____

54. Should the rules **require dismissal** of complaints if the complaint stems from an activity or condition that is **clearly allowed** pursuant to the political subdivision's approval?

- Yes
 No
 Other _____

55. Should the rules **require** that complaints be **overseen** by the political subdivision granting the approval for a wind energy system?

- Yes
 No

56. Should the rules **require** that complaints be **handled** by the political subdivision in the first instance?

- Yes, the political subdivision itself should deal with complaints
 Yes, but if the political subdivision does not have sufficient resources, the developer/owner should be responsible for responding to complaints according to a standardized protocol, and the political subdivision may review complaint records at any time
 No, the political subdivision should be able to establish a committee to deal with complaints
 No, the political subdivision should be required to establish a committee to deal with complaints
 No, complaints should be handled directly by the Public Service Commission with no political subdivision involvement

57. Should the rules **clarify** the Public Service Commission's **authority** to review complaints?

- Yes, the rules should be clarified regarding: _____
 No

58. Should the rules **clarify how stakeholders will engage** in the Public Service Commission's review of complaints?

- Yes, stakeholder should be able to: _____
 No, the draft rules are sufficient on this issue

Property Value Protection Plan

59. Should the Council **recommend** a property value protection plan as a **best practice**?

- Yes
 No

60. Should the rules **require** developers to **offer** a property value protection plan?

- Yes
 No

61. If the rules **require** developers to **offer** a property value protection plan, **what wind energy systems** should it apply to?

- Large wind energy systems
 Community wind energy systems
 Small wind energy systems

62. If the rules **require** developers to **offer** a property value protection plan, **who** should it be offered to?

- Landowners adjacent to turbine host properties
 Landowners within _____ feet of a turbine
 Other _____

Wind Leases & Easements

63. Should the Council establish a **list** of items to include in a lease or easement as part of a **best practices** document?

- Yes
 No

64. Should the **rules** address items that **must** be included and **may not** be included in a lease or easement?

- Yes, with as much detail as possible
 Yes, for certain limited topics
 No

65. Should the **language in the draft rules** requiring the developer, owner and operator of the wind energy system to **comply** with all federal, state and local **laws and regulations** applicable to the wind energy system be **removed**?

- Yes
 No

66. Should the **language in the draft rules** requiring a lease to permit the property owner to **terminate** the wind lease if the portion of the wind energy system located on the property **has not operated** for a period of at least 18 months **unless** the property owner receives the normal minimum **payments** be **removed**?

- Yes
 No, it should stay as is
 No, but it should be modified to state: _____

67. Should the **language in the draft rules** requiring a lease to **specify the circumstances** under which the developer, owner or operator of the wind energy system **may withhold payments** from the property owner be **removed**?

- Yes
 No

68. Should the language in the draft rules requiring a lease to permit the property owner to rescind an executed wind lease within 3 business days of signing the wind lease be removed?
- Yes
 No
69. Should the language in the draft rules stating that a lease, except for compensation terms, may not be required to be confidential be removed?
- Yes
 No
70. Should the language in the draft rules stating that a lease may not make the property owner liable for any property tax associated with the wind energy system or other equipment related to the production of electricity by the wind energy system be removed?
- Yes
 No, it should stay as is
 No, but it should be modified to state: _____
71. Should the language in the draft rules stating that a lease may not make the property owner liable for any violation of federal, state or local laws and regulations by the developer, owner or operator of the wind energy system be removed?
- Yes
 No
72. Should the language in the draft rules stating that a lease may not make the property owner liable for any damages caused by the wind energy system or the operation of the wind energy system, including liability or damage to the property owner or to third parties be removed?
- Yes
 No
73. Should the language in the draft rules stating that a developer, owner or operator may not, as a condition of accepting any benefit to settle a noise, signal interference, stray voltage or shadow flicker mitigation issue, require a property owner to keep the settlement confidential or require the property owner to waive any right to make a future claim about an unrelated issue be removed?
- Yes
 No
 No, but it should be modified to state: _____
74. Should the rules require the lease to state that a person negotiating or presenting a wind lease or easement on behalf of a developer represents the developer and not the landowner?
- Yes
 No
75. Should the rules require the lease to state that the lease is a contract?
- Yes
 No
76. Should the rules require the lease to include plans and specifications regarding the specific wind turbine that may be constructed?
- Yes
 No
77. Should the rules invalidate any wind lease or easement signed prior to the developer giving general public notice of the planned wind energy system?
- Yes
 No

78. If the rules invalidate any lease or easement signed prior to general public notice, should the rules allow a letter of intent to be signed in lieu of a lease [without requiring general public notice first]?
- Yes
 No
79. Should the rules require any person negotiating or presenting a wind lease or easement on behalf of a developer to hold a license to conduct real estate activities and be under the supervision of a real estate broker?
- Yes
 No
80. Should the rules require any person negotiating or presenting a wind lease or easement on behalf of a developer to hold a real estate broker license?
- Yes
 No
81. Should the rules require wind leases and easements to comply with existing precedents and state laws relating to other types of construction?
- Yes
 No

Decommissioning

82. For how long should a wind energy system be allowed to stand continuously without operating before decommissioning is required?
- 18 continuous months, with limited exceptions
 24 months, with a rebuttable presumption if the system will be reused
 Other _____
83. Should the rules require removal of the turbine foundation and other underground structures?
- Yes, they should be completely removed
 Yes, they should be removed to at least four feet below grade
 Yes, they should be removed to _____
 No
84. If the rules require removal of below ground improvements, should the rules require wind energy system applications to include plans and estimated costs for excavating and removing the below grade improvements?
- Yes
 No
85. To what condition should the rules require restoration of the land upon decommissioning?
- Pre-construction condition, to the extent feasible
 The same general topography that existed just prior to construction and with topsoil re-spread over the disturbed areas at a depth similar to that in existence prior to the disturbance. Areas disturbed by the construction of the facility and decommissioning activities must be graded, top-soiled, and re-seeded according to NRCS technical guide recommendations and other agency recommendations, unless the landowner requests in writing that the access roads or other land surface areas be retained.
 Other _____

86. What should the rules require developers/owners to provide in terms of financial assurances related to decommissioning?
- Proof of financial ability to decommission in a form and amount based on a cost estimate by a mutually agreeable third-party
 - Bonds or monies up front to guarantee decommissioning
 - Other _____
87. Should the language in the draft rule requiring owners of wind energy systems to file a notice upon completion of decommissioning be removed?
- Yes
 - No
88. Should the rules stipulate penalties if decommissioning requirements are not followed?
- Yes
 - No
89. If the rules stipulate penalties if decommissioning requirements are not followed, what should these penalties be?
- Penalties imposed by political subdivision using political subdivision's general authority
 - Specific financial forfeiture in the amount of _____
 - Other _____
90. Should the State assume ultimate responsibility for decommissioning wind energy systems approved by political subdivisions?
- Yes
 - No

Construction and Operation Standards – General

91. Should the language in the draft rules establishing requirements relating to turbine appearance be removed or modified?
- Yes, they should be removed
 - Yes, they should be modified
 - No, the language should stay as is
92. If the language in the draft rules establishing requirements relating to turbine appearance should be removed or modified, should the rules require wind turbines to have a neutral finish?
- Yes
 - No, there should be no requirements about the finish
 - No, there should be a different requirement about the finish _____
93. If the language in the draft rules establishing requirements relating to turbine appearance should be removed or modified, should the rules prohibit displaying advertising material or signage on a wind turbine, other than warnings, equipment information or indicia of ownership?
- Yes
 - No
 - Yes, advertising material and signage on a turbine should be prohibited, but with different/additional exceptions: _____

94. If the language in the draft rules establishing requirements relating to turbine appearance should be removed or modified, should the rules prohibit attaching any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices except for safety features or wind monitoring devices?
- Yes
 - No
 - Yes, these should be prohibited, but with different/additional exceptions: _____

95. Should the rules require the wind energy system owner to provide as-built specifications for the wind energy system?
- Yes, to the political subdivision granting the approval
 - Yes, to the Public Service Commission
 - Yes, to some other entity: _____
 - No

Construction and Operation Standards – Emergency Procedures

96. Should the rules set forth default areas of responsibility for emergency services provision at the wind energy system (what is the developer/owner responsible for, what is the local service provider responsible for)?
- Yes
 - No
97. If the rules set forth default areas of responsibility for emergency services provision at the wind energy system, should the developer/owner be responsible for services starting at the base of the turbine?
- Yes
 - Yes, and the developer/owner should also be responsible for _____
 - No, the developer/owner should only be responsible for _____
98. Should the rules require the applicant to provide a copy of the project summary and site plan to the local emergency services provider, as designated by the political subdivision reviewing the application?
- Yes
 - No
99. Should the rules require the applicant to cooperate with local emergency services in developing an emergency response plan upon the request [of the political subdivision]?
- Yes
 - No
100. If the rules require the applicant to cooperate with local emergency services in developing an emergency response plan upon request, what area should this plan cover?
- The wind energy system
 - The area within _____ feet of the wind energy system
 - Other _____

Conflict of Interest

101. Should the rules **require** that **no member** of the **political subdivision** reviewing an application, or any of the political subdivision's involved committees, may **derive any personal profit or gain**, directly or indirectly, by reason of his or her **acting on an application** for a wind energy system?
- Yes
 - No, the rules should not address political subdivision conflicts of interest
 - No, the rules should address conflicts of interests differently: _____
102. Should the rules **require** any **member** of the **political subdivision** reviewing an application to **disclose to the political subdivision any personal interest** that he or she may have in any **wind energy system matter** pending before the local jurisdiction?
- Yes
 - No
103. Should the rules **require** any **member** of the **political subdivision** reviewing an application to **refrain from participating** in any **wind energy system matter** pending before the local jurisdiction in which the political subdivision member has a **personal interest**?
- Yes
 - No

General Notification Requirements

104. What should the **general public notification period** be for **large** wind energy systems?
- 270 days before filing a construction application or 180 days before planned start of construction, whichever is earlier
 - 90 days before filing a construction application
 - 60 days before filing a construction application
 - 30 days before filing a construction application or 60 days before planned start of construction, whichever is earlier
 - Other _____
105. What should the **notification period** be for **small** wind energy systems?
- 270 days before filing a construction application or 180 days before planned start of construction, whichever is earlier
 - 90 days before filing a construction application
 - 60 days before filing a construction application
 - 30 days before filing a construction application or the planned start of construction, whichever is earlier
 - Other _____
106. Should the rules **require** developers to provide **general public notification prior** to signing any **binding leases or easements**?
- Yes
 - No
107. Should the rules require **small** wind energy systems to notify only **adjacent** landowners?
- Yes
 - No, they should notify the same people as large wind
 - No, they should notify: _____

108. [Regarding the form of notification to be given,] should the rules require notification using “commercially reasonable efforts” only?

- Yes
 No

Application Process Requirements

109. Should the rules require that wind energy system applications include plans and specifications for the turbines being built?

- Yes
 No

110. Should the rules allow a political subdivision to request only additional information required under the rules?

- Yes
 No

111. Should the language in the draft rules allowing political subdivisions to request information in an application pursuant to detailed application filing requirements specified by the Commission be removed?

- Yes
 No

112. Should the language in the draft rules allowing political subdivisions to request any other information necessary to understand the proposed wind energy system be removed?

- Yes
 No

113. Should the language in the draft rules allowing political subdivisions to request information related to the wind energy system be removed?

- Yes
 No

Political Subdivision Process

114. Should the rules prohibit a political subdivision from placing any condition or regulation on a wind energy system except as specifically authorized by the rules?

- Yes
 No

Additional questions from Commission staff:

115. Should the rules specify numerical limits on the amount of reasonable fees that a political subdivision can charge?

- Yes
 No

116. If the rules specify numerical limits on the amount of reasonable fees that a political subdivision can charge, what should the limits be?

- Fee capped at 1.0% of estimated wind energy system cost
 Fee capped at 0.5% of estimated wind energy system cost
 Fee capped at 0.3% of estimated wind energy system cost
 Other _____

Stray Voltage

117. Should the rules establish **required standards** for pre-construction and post-construction **stray voltage testing**?

- Yes
- No

118. If the rules establish **required standards** for pre-construction and post-construction **stray voltage testing**, **what** should the rules require?

- Parties must follow the PSC's Phase 2 stray voltage protocol
- Facility should be tested by a licensed engineer before the utility gets involved
- Utilities should be required to install neutral isolation devices on all transformers serving dairies and other livestock operation.
- Other _____

119. Should the rules address **who** (developer/owner v. utility) is responsible for **ensuring** that required pre-construction and post-construction **stray voltage testing** is **conducted**?

- Yes
- No

120. Should the rules address **who** (developer/owner v. utility) is **financially** responsible for what portions of pre-construction and post-construction **stray voltage testing**?

- Yes
- No

Commission Review

(No amendments suggested)

About this document:

This Straw Proposal Amendment Worksheet was prepared by Commission staff based on written responses to the Straw Proposal of June 9, 2010 that were submitted by Wind Siting Council members as of June 21, 2010, and based on discussions at the Wind Siting Council meetings June 15 and June 21, 2010.

Wind Siting Council members are encouraged to contact Commission staff as soon as possible regarding any errors in or omissions from this Worksheet.