

SUMMARY OF 2009 WISCONSIN ACT 40 RULE REQUIREMENTS

I. General requirement for rules

Under Wis. Stat. § 196.378(4g)(b), the Public Service Commission of Wisconsin (Commission) shall, with the advice of the Wind Siting Council promulgate rules that specify the restrictions that a political subdivision (a city, village, town or county) may impose on the installation or use of a wind energy system consistent with the conditions specified in Wis. Stat. § 66.0401(1m) (a) to (c).

Wisconsin Stat. § 66.0401(1m) reads:

- 66.0401(1m)** Authority to restrict systems limited. No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the following conditions:
- (a) Serves to preserve or protect the public health or safety.
 - (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
 - (c) Allows for an alternative system of comparable cost and efficiency.

II. Specific provisions that shall be included in the rules

The subject matter of the rules promulgated by the Commission shall include all of the following:

- Setback requirements that provide reasonable protection from any health effects, including health effects from noise and shadow flicker, associated with wind energy systems. *Wis. Stat. § 196.378(4g)(b)*
- Decommissioning, which means removing wind turbines, building, cables, electrical components, roads, and any other facilities associated with the wind energy system and restoring the site of the wind energy system. *Wis. Stat. §§ 196.378(a)2., 196.378(4g)(b)*
- Specify the information and documentation to be provided in an application to demonstrate that a proposed wind energy system complies with the rules. *Wis. Stat. § 196.378(4g)(c)1.*
- Specify the information and documentation to be included in a political subdivision's record of decision under Wis. Stat. § 66.0401(4)(b). *Wis. Stat. § 196.378(4g)(c)2.*
- Specify the procedure a political subdivision shall follow in reviewing an application for approval under Wis. Stat. § 66.0401(4). *Wis. Stat. § 196.378(4g)(c)3.*
- Specify the requirements and procedures for a political subdivision to enforce the restrictions allowed under the Commission's rules. *Wis. Stat. § 196.378(4g)(c)4.*
- Require the owner of a wind energy system with a nominal operating capacity of at least one megawatt to maintain proof of financial responsibility ensuring the availability of funds for decommissioning upon discontinuance of use of the wind energy system. *Wis. Stat. § 196.378(4g)(d)*

III. Specific provisions that may be included in the rules

The subject matter of the rules promulgated by the Commission may include all of the following:

- Provisions relating to any of the following:
 - Visual appearance.
 - Lighting.
 - Electrical connections to the power grid.
 - Setback distances.
 - Maximum audible sound levels.
 - Shadow flicker.
 - Proper means of measuring noise.
 - Interference with radio, telephone or television signals.
 - Other matters. *Wis. Stat. § 196.378(4g)(b)*

- That proof of financial responsibility can be established by a bond, deposit, escrow account, irrevocable letter of credit, or other financial commitment specified by the Commission. *Wis. Stat. § 196.378(4g)(d)*