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## **New Hampshire adopts statewide wind siting rules**

Energy Policy New Hampshire

In December, 2015, the New Hampshire Site Evaluation Committee ('SEC') adopted new rules governing the siting of energy projects in the state, including wind energy facilities. The new rules represent the culmination of 2+ years of intense focus by stakeholders with widely varying interests. In that time, the SEC conducted months of hearings and deliberative sessions, all open to public, where thousands of pages of detailed comments were debated and ultimately distilled down to standards intended to better quantify the data presented by applicants, reduce subjectivity and lead to more informed, and more consistent decisions on energy facility siting.

1. Abutter notification – The SEC added a rule requiring developers to notify all abutting property owners of their projects when the pre-application Public Information session is scheduled.
2. Site Control – Applicants are now required to demonstrate evidence that they have a “current right, an option or other legal basis to acquire the right, to construct, operate and maintain the facility in the form of: a.) ownership, ground lease, easement or other contractual rights or interest...” This wording is intended to ensure the Applicant has full control of the project site, including the turbine sites, transmission line, substation, etc, before an application will be considered by the State.
3. Aesthetics and Visual Impact – A visibility analysis for wind projects must extend to a minimum of a 10-mile radius from each turbine. Photosimulations are required from key observation points and a sample of private property observation points in the area of potential visual impact. Simulations are to be produced under clear weather conditions, at a time of day with optimal clarity, avoiding obstructions. Turbines placed into base photos must be shown with a full frontal view with no haze or fog applied, and representing the shape and height of the actual turbines. If FAA lighting is used, a nighttime lighting assessment is required. At least one set of simulations representing winter season conditions (no foliage) is required.
4. Sound Modeling and Standards – A sound impact assessment must be done pre- and post-construction in accordance with professional methodologies. The professional standards to be followed are cited in the rules by name and date. This way, the State provides legal certainty for what is needed in order to comply with the regulation. In New Hampshire, the standards are ANSI S12.9 Part 2 and S12.9 Part 3. Legal certainty is important in ensuring all parties, including the experts working on behalf of the Applicant and experts working on behalf of Intervenors, use best practice methods and accepted measurement protocols. Doing so also ensures the results are repeatable. For pre-constructive predictive modeling, project noise emissions are to be modeled using the ISO 9613-2 (1996) standard. All corrections for model algorithm error must be disclosed and accounted for in the model.

**Wind energy facilities must meet a ‘not-to-exceed’ standard of 45dBA from 8am-8pm and 40dBA at all other times of the day. The sound measurements are to be taken ‘on property that is used in whole or in part for permanent or temporary residential purposes.’**

5. Shadow Flicker – A shadow-flicker assessment must be completed for each residence, learning space, workplace, health care setting, public gathering place (outdoor and indoor), other occupied building and roadway, within a minimum of 1 mile of any turbine, based on shadow flicker modeling that assumes an impact distance of at least 1 mile from each of the turbines. Shadow flicker may not occur more than 8 hours per year at any of these locations.

6. Setbacks – The applicant must complete an assessment of the risks of ice throw, blade shear, tower collapse on any property, roadway, etc. The SEC committee will determine on a case-by-case basis whether there is a concern with the setbacks and/or the appropriate distance that should be set.

7. Decommissioning – The Applicant must provide a decommissioning plan prepared by an independent, qualified person with demonstrated knowledge and experience in wind generation projects and cost estimates. The plan is to provide for the removal of all structures and restoration of the facility site. The full cost of decommissioning is required with no opportunity to deduct the anticipated salvage value of facility components or materials. All underground infrastructure at depths less than four-feet below grade is to be removed from the site along with all above ground components and related infrastructure. The land is to be graded to match adjacent contours and allowed to re-vegetate naturally.

8. Orderly Development – The general consensus was to include consideration for both the host and affected communities. Areas of concern include impacts to the economy, real estate values, land uses, tourism and recreation. 'Affected community' is defined as the host and abutting communities and other municipalities (or unincorporated places) that are expected to be affected by the facility, as indicated in studies included in the application.

9. Cumulative Impact – In determining whether to grant a certificate of site and facility for a proposed wind energy facility, the committee shall consider the cumulative impacts of or from multiple projects or multiple towers, or both, to public health and safety, natural, wildlife, habitat, scenic, recreational, historic, and cultural resources, including aesthetic impacts and sound impacts, and, with respect to aesthetics, the potential impacts of combined observation, successive observation, and sequential observation of energy facilities by the viewer.

10. Application of the Rules – The newly adopted rules make no distinction between participating and non-participating properties, thus all properties are subject to the same standards for noise, shadow flicker, visualizations etc.

The statute governing the authorities granted to the NH Site Evaluation Committee can be found here - RSA 162-H.