

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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April 1, 2014

The Honorable Selim Noujaim, Co-Chairperson
The Honorable Andres Ayala, Co-Chairperson
Honorable Members of the Legislative Regulations Review Committee
Room 011, Capitol Building
Hartford, CT 06106

RE: **2012-054E - CSC WIND REGULATIONS** – Adoption of Regulations pursuant to Public Act 11-245, An Act Requiring the Adoption of Regulations for the Siting of Wind Projects, Sections 16-50j-2a, 16-50j-18 and 16-50j-92 to 16-50j-96, inclusive, of the Regulations of Connecticut State Agencies.

Dear Representative Noujaim, Senator Ayala and Honorable Members of the Legislative Regulation Review Committee:

Pursuant to Section 4-170 of the Connecticut General Statutes, the Connecticut Siting Council (Council) hereby re-submits the above-referenced proposed regulations for the Legislative Regulation Review Committee's (Committee) consideration and approval regarding the adoption of regulations for the siting of wind projects.

The Council made the following underlined changes to the proposed regulations:

(NEW) Sec. 16-50j-94. Additional Information Required.

(i) Decommissioning Plan.

Any application for a certificate for a wind turbine facility or petition for a declaratory ruling for a wind turbine facility shall contain a decommissioning plan for the proposed site and any alternative sites that shall include:

- (1) the projected useful life of the wind turbines;
- (2) identification of any circumstances that would trigger decommissioning of the facility in advance of the projected useful life of the wind turbines;
- (3) a description of the method by which foundations, wind turbines, associated equipment and components will be dismantled and removed;
- (4) a description of the method by which the site will be restored as near as possible to its original condition, including, stabilization, re-grading and re-vegetation;
- (5) an estimate of the total cost of implementing the decommissioning plan calculated by a certified professional engineer based on the projected useful life and the projected salvage value of the facility; and
- (6) financial assurance to ensure that sufficient funds are available for decommissioning the facility.

(j) Waivers.

(1) Agreements. Pursuant to Section 16-50o of the Connecticut General Statutes, the applicant or petitioner shall submit any agreements entered into with any abutting property owner of record to waive the requirements under Subsections (a) and (c) of Section 16-50j-95 of the Regulations of Connecticut State Agencies.

(2) Requests. The applicant or petitioner shall submit to the Council any request for a waiver of the requirements under Subsections (a) and (c) of Section 16-50j-95 of the Regulations of Connecticut State Agencies at the time an application or petition is filed with the Council. If the Council finds good cause for a waiver of the requirements under Subsections (a) and (c) of Section 16-50j-95 of the Regulations of Connecticut State Agencies during a public hearing, the applicant or petitioner shall provide notice by certified mail to the abutting property owner of record that includes, the following:

(A) notice of the requirements under Subsections (a) and (c) of Section 16-50j-95 of the Regulations of Connecticut State Agencies;

(B) notice of the criteria considered for a good cause determination to waive the requirements under Subsections (a) and (c) of Section 16-50j-95 of the Regulations of Connecticut State Agencies;

(C) notice of the wind turbine manufacturer's recommended setback distances;
and

(D) notice that the abutting property owner of record is granted a 30-day period of time from the date notice by certified mail is sent to an abutting property owner of record to provide written comments on the proposed waiver of the requirements under Subsections (a) and (c) of Section 16-50j-95 of the Regulations of Connecticut State Agencies to the Council or to file a request for party or intervenor status with the Council pursuant to Sections 16-50j-13 to 16-50j-17, inclusive, of the Regulations of Connecticut State Agencies.

(NEW) Sec. 16-50j-95. Considerations for Decision.

(a) Setback Distances.

(1) Requirements.

(A) Any application for a certificate for a proposed wind turbine facility with a capacity of more than 65 megawatts shall include setback distances from each of the proposed wind turbine locations and any alternative wind turbine locations of not less than 2.5 times the wind turbine height from all property lines at the proposed site and any alternative sites or shall comply with the wind turbine manufacturer's recommended setback distances, whichever is greater. A copy of the wind turbine manufacturer's recommended setback distances shall be included in the application or petition. In its discretion, the Council may require greater setback distances based on the results of any evaluation report submitted under Section 16-50j-94 of the Regulations of Connecticut State Agencies.

(B) Any petition for a declaratory ruling for a proposed wind turbine facility with a capacity of less than 65 megawatts shall include setback distances from each of the proposed wind turbine locations and any alternative wind turbine locations of not less than 1.5 times the wind turbine height from all property lines at the proposed site and any alternative sites or shall comply with the wind turbine manufacturer's recommended setback distances, whichever is greater. A copy of the wind turbine manufacturer's recommended setback distances shall be included in the application or petition. In its discretion, the Council may require greater setback distances based on the results of any evaluation report submitted under Section 16-50j-94 of the Regulations of Connecticut State Agencies.

(2) Waiver of requirements. The minimum required setback distances for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites may be waived, but in no case shall the setback distance from the proposed wind turbines and any alternative wind turbines be less than the manufacturer's recommended setback distances from any occupied residential structure or less than 1.5 times the wind turbine height from any occupied residential structure:

(A) by submission to the Council of a written agreement between the applicant or petitioner and abutting property owners of record stating that consent is granted to allow reduced setback distances; or

(B) by a vote of two-thirds of the Council members present and voting to waive the minimum required setback distances upon a showing of good cause, which includes consideration of:

- (i) land uses and land use restrictions on abutting parcels;
- (ii) public health and safety;
- (iii) public benefit and reliability;
- (iv) environmental impacts;
- (v) policies of the state; and
- (vi) wind turbine design and technology.

(c) Shadow Flicker.

(1) Requirements. Shadow flicker shall not occur more than 30 total annual hours cumulative at any off-site occupied structure location from each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites.

(2) Waiver of Requirements. The maximum total annual hours of shadow flicker generated by the operation of each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites may be waived:

(A) by submission to the Council of a written agreement between the applicant or petitioner and property owners of record stating that consent is granted to allow excess total annual hours of shadow flicker; and

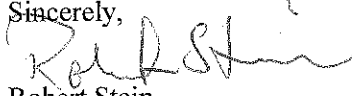
(B) by a vote of two-thirds of the Council members present and voting to waive the total annual hours of shadow flicker requirements upon a showing of good cause, which includes consideration of:

- (i) land uses and land use restrictions on abutting parcels;
- (ii) public health and safety;
- (iii) public benefit and reliability;
- (iv) environmental impacts;
- (v) policies of the state; and
- (vi) wind turbine design and technology.

If you have any questions, or require additional information or clarification concerning the resubmission of the above-referenced proposed wind regulations, please feel free to contact Melanie Bachman, Staff Attorney/Acting Executive Director at 860-827-2951.

Thank you for your consideration.

Sincerely,



Robert Stein
Chairman

cc: Service List