



FILE

# Ohio Power Siting Board

September 29, 2008

Ted Strickland, Governor

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180 E. Broad Street  
Columbus, Ohio 43215-3793

[www.OPSB.ohio.gov](http://www.OPSB.ohio.gov)

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Denise Talebi, Attorney at Law  
115 State Route 533  
Zanesfield, Ohio 43360

Re: The Ohio Power Siting Board's Certification Requirements for Electric  
Generating Wind Facilities  
Case No. 08-1024- EL-ORD

Dear Ms. Talebi:

Thank you for contacting the Ohio Power Siting Board regarding the potential installation of wind generation in your area. The OPSB's mission is to support sound energy policies that provide for the installation of energy and transmission infrastructure for the benefit of the Ohio citizens, while promoting the state's economic interests and protecting the environment and land use.

The generating capacity of a wind generation project determines whether the state has jurisdiction over the location of the project. The Ohio Power Siting Board (OPSB) has jurisdiction when an "economically significant" wind turbines and associated facilities with a single interconnection to the electrical grid, operate at an aggregate capacity of five or more megawatts (MW). Unless this threshold is met, jurisdiction will lie within the authority of the local government, typically a zoning board or county commissioners.

In the issue of "setbacks," the law prescribes a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and further, be at least seven hundred fifty feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the exterior of the nearest, habitable, residential structure, if any, located on adjacent property at the time of the certification application.

The minimum setback shall apply in all cases except those in which all owners of property adjacent to the wind farm property waives the application of the setback to that property. The board will evaluate each application and may determine that a setback greater than the minimum is necessary.

Before construction can begin on any major utility facility within the state of Ohio, a certificate of environmental compatibility and public need must be obtained from the OPSB. Any question about whether a project meets or does not meet the definition should be referred to the OPSB for clarification.

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# Ohio Power Siting Board

OPSB. Any question about whether a project meets or does not meet the definition should be referred to the OPSB for clarification.

The Board issued proposed draft rules for wind facilities in Case No. 08-1024-EL-ORD. Comments are due in the docket on September 29, 2008 and reply comments are due October 7, 2008. Please reference the docket number above when filing comments regarding the rules. Should you have additional wind generation facility comments and/or concerns, please contact the Call Centers at (800) 686-PUCO (7826) or (800)270-OPSB (6772) or visit the Web site at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). or the OPSB website at [www.OPSB.ohio.gov](http://www.OPSB.ohio.gov). We will place your comments in the official docket and share them with members of the Board.

Very truly yours,

Kim Wissman, Executive Director  
Ohio Power Siting Board

KW:dgd

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**From:** Denise Talebi [mailto:dtalebi@embarqmail.com]

**Sent:** Friday, September 26, 2008 8:24 AM

**To:** Wissman, Kim; Lambeck, Klaus; stuart.siegfried@pupc.state.oh.us; Schriber, Alan; lt.governor@governor.ohio.gov; Director@odh.ohio.gov; agri@agri.oh.gov; chris.korleski@epa.state.oh.us; Andrew.Boatright@westerville.org; SD07@mailr.sen.state.oh; senatorwilson@maildsen.state.oh.us; district31@ohr.state.oh.us; district50@ohr.state.oh.us

**Subject:** Wind Turbine Siting Regulations, Case No. 08-1024-GE-ORD

September 26, 2008

To: Ohio Power Siting Board

Re: Case # Case No. 08-1024-GE-ORD: Wind Turbine Siting Regulations for the State of Ohio. Chapter 4906-17

Dear OPSB Member:

We live in Logan County, Ohio.

We have many concerns regarding the proposed construction of wind turbines in this area.

We support development of renewable energy; however, we urge the OPSB to make sure that construction and siting of industrial wind machines takes place in appropriate areas – and that the health and property rights of the citizens these machines purportedly are being built to assist do not instead cause us harm.

When I speak of harm, I am talking about property value declining; noise; safety; shadow flicker; ice throw; fire hazard; damage to our wells and water supply; damage to our bats and birds; destruction of the beauty of our landscape; interference with satellite, computer and cell phone communication; and the right to enjoy and be safe on our entire property or to divide it and sell it.

What type of real recourse will non participating property owners have if there are problems?

We want to know that we will not have shadow flicker on our home, or roadways, prior to construction.

In order to earn a living, my access to telephone, and satellite communication is imperative. What recourse do I have if the neighbor's wind farm disturbs that communication?

What is the decommissioning plan?

What about roadway damage and repair? Who will pay for that?

Must we live with huge highway sized roads due to wind construction?

What about proximity to the local schools? Must a "wind farm" be sited within a few miles of our school?

Please don't give us false assurances that our home value will not be lost. Our biggest investment is our home. The most valuable thing about our home is its setting. That may soon be destroyed as we, and many potential home buyers would see it. I consider that surrounding my home with 400-450 foot wind machines will destroy the view, the quiet, and the peaceful atmosphere. What if we can't sell our home in this already volatile market due to close proximity of wind machines? What if they make us dizzy and sick? What if we can't sleep from the noise? Please consider requiring wind companies to buy out adjacent nonparticipating property owners such as us, who may be sited in the midst of or completely surrounded by a "wind farm."

Please protect us by ensuring that any studies or tests are done by qualified experts who are not associated with or employees of the wind companies prior to any construction.

Will the OSPB should consider the population of the proposed siting area in determining whether industrial wind construction is appropriate in the area?. It seems that set backs are being made to ensure that industrial size wind machines may be built in areas where there are too many homes and non participating property owners residing. Instead, setbacks should be designed to PROTECT non participating property owners, regardless of the impact to wind construction in that area.

Is there any requirement mandated for sufficient wind resources prior to construction in a populated area?

We want to see actual maps depicting actual numbers and locations of the proposed wind machines drawn in proportion to size prior to the approval of construction. This has never been done to date.

Some specific issues of as it relates to the proposed regulations:

NOISE: Section: 4906-17-08.

Setbacks must be adequate to protect property owners from noise that may disturb our right to peaceful enjoyment of our property, cause sleep/medical issues, or prevent sale of our home.

This is a heavily populated rural residential area (79 homes per square mile). Wind turbine sounds are not comparable to the more common noise sources of occasional vehicles, aircraft, rail and industry. Several scientific studies have shown that annoyance to wind turbine sounds begins at levels as low as 30 dBA. This is especially true in quiet rural communities that have not had previous experience with industrial noise sources. The western Ohio county in which I live (Logan), has documented long term background sound levels in the range from less than 20 dBA (L90) to about 30 dBA (L90), with background levels generally in the low 20 dBA range. Noise in these hills travels for miles under the right weather conditions, and there are no other ambient noises to mask or otherwise ameliorate the sound emissions from the proposed wind turbine projects.

I ask that the following recommendation be considered as maximum allowable noise emissions requirements to be measured from the nearest property line:

International Standards Organization (ISO) in ISO 1996-1971 recommends 25 dBA as the maximum night-time limit for rural communities. As can be seen in the table below sound levels of 40 dBA and above are only appropriate in suburban communities during the day and urban communities during day and night. There are no communities where 45 dBA is considered acceptable at night.

ISO 1996 1971 Recommendations for Community Noise Limits			
District Type	Daytime <sup>Limit</sup>	Evening Limit 7 11pm	Night Limit 11pm 7am
Rural	35dB	30dB	25dB
Suburban	40dB	35dB	30dB
Urban residential	45dB	40dB	35dB
Urban mixed	50dB	45db	40dB

For noise reference see also the George W. Kamperman and Richard R. James report presented at the Noise Conference 2008, "Simple Guidelines for Siting Wind Turbines to Prevent Health Risk."

Regarding section: 4906-17-08 Social and ecological data.

(C) Economics, land use and community development, 1) Land uses. The applicant shall: C. Economics, land use and community development. (ii) The wind turbine shall be at least seven hundred fifty feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the exterior of the nearest, habitable, residential structure, if any, located on adjacent property at the time of the certification application.

This regulations needs to be changed to coincide with several scientific studies recommendations, most notably the National Academy of Science's recommendation that no industrial wind turbine be sited closer than 3200' of a neighboring property line. In any case, the distance must be measured from the property line and not from the dwelling. To measure from the adjacent dwelling would essentially rob the neighboring and owner full potential and use of his property at the expense of the wind turbine lease/landowner.

The measurement of 3200' should also be applied to other sections of Chapter 4906-17 that reference setback or distances; and request a technical justification for any request for consideration of reduction in written safety guidelines

Additional areas of concern that I do not believe have been adequately addressed and need requirements prescribed are:

Protection of ground water wells from blasting (glacial ridge of limestone and karst in this area). Who will reimburse me if there is damage to our well water system?

Protection of streams and adjacent properties and ponds from runoff during construction and as a result of permanent deforestation and removal of vegetation.

How will the OPSB use alternative site data in their analysis? Are equal or better winds in a less populated area to be factored into the application approval determination?

Will OPSB acquire a database of manufacturer/model or documentation to have on file for comparison to those turned in with project siting applications? If recommended distances change, will the OPSB (and OSHA) further analyze the reasons for the change, perhaps through an independent (and unbiased) mechanical engineering firm?

If it is found that safety distances were not disclosed during permitting, and inappropriate sites are permitted, what is the statutory recourse/penalty after the turbines are built?

What criteria/determinant will be used for noise sensitive-areas within one-mile of the proposed facility? And who will monitor to ensure compliance? Can permits be revoked for non-compliance?

To within what distance from the wind facility 1re applicants required describing equipment and procedures to mitigate the effects of noise emissions from the proposed facility during construction and operation?

We understand that OPB has stated that any safety distance (i.e. "do not linger" zone) guidelines in a turbine manufacturer's documentation will SUPERCEDE any state mandated minimum setbacks. Please include language to ensure the manufacturer(s) and their insurer(s) guarantee they will provide any such safety references in their applications.

Do not permit turbine siting to cause shadow flicker on adjacent properties.

This area is a haven for wildlife, and they need to be considered with regard to protecting the adjacent lands to ensure their native wildlife will not be disturbed, including the many commercial hunting, fishing and recreational properties.

Please tell me how the non-turbine properties will be protected from indiscriminate public domain seizure for transmission lines to transport questionable wind energy production.

For application requirements under land uses – regarding the map of 1:24,000 scale indicating general land uses, depicted as areas on the map, within a five-mile radius of the site, including such uses as residential and urban, manufacturing and commercial, mining, recreational, transport, utilities, water and wetlands, forest and woodland, pasture and cropland, who will determine current and potential future land uses? Who verifies the accuracy of that information?

Considering blade shear and ice throw, that measurement should be increased substantially – to the NAS's suggested 3200' setback.

Under section C, 1. Land uses—please explain more fully how these are to be audited before and after construction for content and accuracy:

(a) estimate the annual total and present worth of construction and operation payroll.

(b) estimate the construction and operation employment and estimate the number that will be employed from the region.

(c) estimate the increase in county, township, and city tax revenue accruing from the facility.

(d) estimate the economic impact of the proposed facility on local commercial and industrial activities.

15. Should the proximity of wind turbines cause our property values to decline – can the state guarantee we will be reimbursed for the difference...or a buyout if four homes cannot be sold within a reasonable amount of time? Many in our area are having their homes appraised in advance of wind turbines. Please add a requirement for a site-specific study of home sales – past and projects values and for permits for new home construction and remodeling – past and projected

Under C, 1, D – G, please explain what impacts are to be estimated, and how that data's content will be validated.

Permit no communications or any type of communications signal receiving devices to be attached to these structures at any times.

Please answer questions regarding the following:

**Section e. Public responsibility. The applicant shall:**

**(1) describe the applicant's program for public interaction for the siting, construction, and operation of the proposed facility, i.e., public information programs. Who will verify?**

**(2) describe any insurance or other corporate programs for providing liability compensation for damages to the public resulting from construction or operation of the proposed facility. Who will monitor, enforce or mediate?**

**(3) evaluate and describe the potential for the facility to interfere with radio and tv reception, and if warranted, describe measures that will be taken to minimize interference. Who will monitor, enforce or mediate?**

**(4) evaluate and describe the potential for the facility to interfere with military radar systems, and if warranted, describe measures that will be taken to minimize interference. Who will monitor & enforce or mediate?**

**(5) evaluate and describe the anticipated impact to roads and bridges associated with construction vehicles and equipment delivery. Describe measures that will be taken to repair roads and bridges to at least the condition present prior to the project. Who will enforce or mediate?**

**(6) describe the plan for decommissioning the proposed facility, including a discussion of any financial arrangements designed to assure the requisite financial resources. Who will monitor, enforce or mediate?**

Instead of having the wind companies provide their own versions of the proof/evidence the OPSB requires, and since studies such as those done by NREL are clearly defective, why does the State of Ohio not conduct their own independent studies on impacts on the environment, community health, property use, property values, enjoyment of chosen lifestyle, wildlife, preservation of roadways, non-interference with adjacent properties, nuisance, damages to people & their properties before any wind turbines are permitted or erected?

Before these draft regulations become law, please visit our community to try to better understand our reasons for concern.

Sincerely yours,

Denise Talebi, Attorney at Law

Charley Gillespie

Michael Gillespie

Alisa Gillespie

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Zanesfield, Ohio 43360

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Copy: Public Utilities Commission of Ohio; Ohio House of Representatives Public Utilities Committee; Ohio House of Representatives Alternative Energy Committee; Ohio Senate Energy and Public Utilities Committee