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**Setbacks (4906-4-08(C)(2)(b))** Ohio Environmental Council (OEC): "Ohio now requires that there be at least 1,125 feet between the tip of the blade of the turbine and the nearest adjacent property, *regardless of whether that property has a residence.*"

**Reply:** The Ohio Environmental Council fails to recognize or even consider that property which doesn't contain a residence *is* utilized by people who own that property. It seems that the basic premise of living in and/or owning property the country is having space to use as one desires; not to remain in a residence. People who own property in the country use it for many reasons, which include things that my family, friends, and neighbors use it for: hunting, camping, recreational vehicle riding, hiking, swimming, bird watching, nature preservation, farming, animal pasturing, horseback riding, sports activities, and other activities that *property owners* choose to use it for. Just as people have the right to build a turbine on their property, property owners have the right to deny the use of their property as a setback for a safety zone for turbines; setbacks from property lines protects *all* property owners. Just as I am required to get an easement for drainage onto my neighbor's property, all wind companies should be required to get an easement, not just greedily take anyone's property as part of a safety setback. Finally, there is no reason that OEC should even be addressing this issue since it is a LAW and cannot be arbitrarily ignored by staff.

**Noise (4906-4-09(F))** Ohio Environmental Council (OEC) and MAREC comments:

- "MAREC requests that throughout the rules the term "noise" be eliminated and replaced with the term "sound." "Noise" has a negative connotation that indicates loud, harsh, or disturbing sound. It would be more appropriate to use a descriptive term that is not pejorative. The term "sound" more correctly denotes what is being measured in accordance with the wind farm requirements in new Rule 09."

**Reply:** Since MAREC requests to use a definition for "sound" versus "noise", I would again like to state the definition of the word **farm**:

1. (noun) an area of land and its buildings used for growing crops and rearing animals, typically under the control of one owner or manager.

synonyms: ranch, farmstead, plantation, estate, family farm, dairy farm, hobby farm

2. (verb) make one's living by growing crops or keeping livestock. "he has farmed organically for five years"

synonyms: work the land, be a farmer, cultivate the land; rear livestock "he farmed locally"

Based on that definition, I would note that it would be more appropriate to use a descriptive term such as *industrial wind complex* instead of "wind farm", but alas, I am sure MAREC would consider that term pejorative versus accurate.

- Ohio Environmental Council: "Similar to the property setback issue, proposed Rule 4906-4-09(F) would make the location at which to take noise measurements "adjacent non-participating properties," when in the past it has been measured from the "sensitive receptors" near turbines, typically homes." "Arbitrarily changing the place of measurement to property lines is yet another example of overly burdensome and unreasonable requirements on the wind industry in Ohio."

- MAREC: “Measuring sound from property lines, instead of habitable structures/sensitive receptors, is not only illogical but an incredible encroachment on the property rights of landowners who wish to host wind turbines.”

**Reply:** With all due respect to staff and their efforts, the previous statements by MAREC and OEC are insulting and a slap in the face to all persons in Ohio who choose not to participate in industrial wind projects and should be considered as such. Overly burdensome and unreasonable? An “incredible encroachment on the property rights of those who wish to host wind turbines”? My rights to NOT participate or host a turbine have been trampled for years by those in support of MAREC and OEC and now that the State of Ohio has finally realized that, they have the nerve to complain about it? As a property owner, it is my right to peaceably enjoy my property and measuring sound from my property line helps to ensure that I can do that; I refer to my first reply comment about the many, many uses of one's property. Finally, how about a common sense approach: When a neighbor calls the police/sheriff to place a NOISE complaint about a loud party, the first question the police ask is NOT - does this noise occur only in your home? No, they address the complaint as stated. Consider, and take note of the word *noise*:

“Neither R.C. 2917.11(A)(2), nor the Court in *Carrick* [*State v. Carrick, Slip Opinion No. 2012-608*] provides guidance as to how much inconvenience, annoyance or alarm constitutes “excessive noise”. ... Perhaps all we can take away from *State v. Carrick* is: 1) the Supreme Court of Ohio has a track record upholding noise ordinances; and 2) “playing music at a late hour at such a volume that it keeps the neighbors from sleeping, causes windows to vibrate on a house a quarter mile away [1320 feet], and prompts numerous calls of complaint to authorities” will be enough for the Supreme Court of Ohio to know unreasonable/excessive noise when they hear it, ...”

From: <http://www.ohiorelaw.com/2012/04/supreme-court-of-ohio-knows-it.html>

#### **Shadow Flicker (4906-4-09(H))**

- Ohio Environmental Council: “Shadow flicker should be limited to thirty hours or less at any sensitive receptor, not at the non-participating property boundary.”
- “MAREC emphasizes that the concerns raised previously regarding the sound measurement also hold true for shadow flicker.”

**Reply:** Again, with all due respect to the staff, the complaints about the restrictive nature of using the property line as setback are insulting to those who choose not to participate in industrial wind projects. Consider a common sense approach: For the very obvious reasons they complain about their “rights” to build, or a property owner’s right to build, nonparticipating property owners have the same right to say no and to continue living as they were before industrial wind came to their neighborhood. The argument is the same on both sides - it is the right of the property owner to use their property as they choose. Since nonparticipating property owners have been included in OPSB rules it means they have rights, too, and industrial wind is upset they can no longer take without asking. Finally, just as MAREC emphasizes that sound measurement concerns should hold true for shadow flicker concerns, I ask you to consider a common sense approach: BOTH noise and shadow flicker invade private property without permission and should not be considered okay.

#### **Final comments:**

In the past several months it has come to my attention that the developer of the wind project surrounding my home has been offering “Good Neighbor Agreements” to my friends and neighbors. Recently, my family was contacted about signing one of these because a turbine was too close to the property line and the property will experience more noise and shadow flicker than is allowed. My family has no interest in signing a contract that limits our rights to peaceably enjoy our property because we would have to tolerate more noise and shadow flicker while hosting a safety setback for an unproductive piece of metal. Setbacks, shadow flicker, and noise statutes are vital and should be considered together.

I strongly agree with the comments of Greenwich Neighbors United (GNU) and Union Neighbors United (UNU) that were submitted. I also applaud Senator William J. Seitz's comments and completely agree with his points. I appreciate the common sense used by both GNU, UNU and Senator Seitz to address these issues so that ALL property owners in a project area, specifically the nonparticipating property owner, are protected and not dismissed as an "obstacle" or as an "incredible encroachment" on participating property owners rights. The sheer lack of consideration, or desire to be a "good neighbor", that wind companies and their supporters express because they are frustrated by their "loss" of taking something that didn't belong to them, to begin with, is disparaging.

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Summary: Reply Comment electronically filed by Mr. Matt Butler on behalf of Ms. Katie Elsasser