

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE OHIO POWER
SITING BOARD'S CONSIDERATION OF
OHIO ADM.CODE CHAPTER 4906-4.

CASE NO.19-778-GE-BRO

ENTRY

Entered in the Journal on August 7, 2020

{¶ 1} In light of certain weather-related incidents involving wind turbines and wind farm facilities, the Ohio Power Siting Board (Board) initiated this rulemaking proceeding in order to address the manner of reporting and responding to incidents that impact major utility facilities. Additionally, the Board sought comment on a proposed revision to its rules to make explicit that certain wind farm facilities adhere to local building codes.

{¶ 2} A workshop was held as rescheduled on April 30, 2019, to afford interested persons an opportunity to provide the Board with informal comments on the proposed rules.

{¶ 3} Following an opportunity for filing initial and reply comments on the proposed rule amendments, the Board adopted amended rules by Finding and Order and Entry on Rehearing issued on November 21, 2019 and February 20, 2020, respectively.

{¶ 4} The Board now finds it appropriate to propose a further modification to Ohio Adm.Code 4906-4-10, and therefore has instructed the Board Staff to hold a workshop with interested stakeholders. At the workshop, interested stakeholders should come prepared with comments solely in regard to revisions (as depicted in the underlined language) to proposed Ohio Adm.Code 4906-4-10(D). Following the workshop, an administrative law judge (ALJ) will issue an Entry affording interested stakeholders a brief opportunity to provide initial and reply comments on the proposed rule revisions.

{¶ 5} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are

required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 6} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 7} Accordingly, the additional workshop discussed above will be scheduled to be held on Friday, August 14, 2020, beginning at 10:00 a.m. Due to the continued state of emergency, and given the passage of Am. Sub. H.B. 197, the workshop will be held using remote access technology that facilitates participation by telephone and/or live video on the internet. Persons that wish to provide comments at the workshop regarding revisions (as depicted in the underlined language) to proposed Ohio Adm.Code 4906-4-10(D) must register with the Consumer Call Center for the Public Utilities Commission of Ohio (Commission) before 12:00 p.m. on August 13, 2020, by calling 1-800-686-7826 or by using the Board’s online registration form at <https://opsb.ohio.gov/wps/portal/gov/opsb/events/windfarm-incident-management>. Persons that wish to view but not offer testimony at the workshop must still register at <https://opsb.ohio.gov/wps/portal/gov/opsb/events/windfarm-incident-management>, but may do so at any time and need not pre-register. Also, persons that simply want to listen to the event may access it by phone by dialing 1-408-418-9388, and entering meeting number 129 938 2351 when prompted. Any interested stakeholder that cannot or does not

choose to participate in the workshop may file formal comments with the Board once the draft rule amendments have been issued.

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That, in accordance with Paragraph 7, a workshop be scheduled for August 14, 2020. It is, further,

{¶ 10} ORDERED, That notice of this Entry be served upon all parties of record in this matter.

THE OHIO POWER SITING BOARD

/s/Michael L. Williams

By: Michael L. Williams
Administrative Law Judge

MJA/hac

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NEW

4906-4-10 Notice and reports of incidents involving wind farm facilities.

(A) Telephone notice of incidents.

- (1) Wind farm operators should notify the board's executive director by calling: 1-844-OHCALL1 (1-844-642-2551), as well as local law enforcement and first responders on all incidents involving a wind turbine, within thirty minutes after discovery unless notification within that time is impracticable under the circumstances.
- (2) For purposes of this rule incidents include, events where:
 - (a) There is injury to any person.
 - (b) There is damage to property other than the property of the wind farm operator.
 - (c) Where an event such as tower collapse, turbine failure, thrown blade or hub, collector or feeder line failure, ice throw, or nacelle fire, causes damage to the wind farm operator's property that is estimated to exceed fifty thousand dollars, excluding the cost of electricity lost, which is the sum of the estimated cost of material, labor, and equipment to repair and/or replace the operator's damaged property.

(B) Written reports regarding incidents.

- (1) Within thirty days after the incident is discovered, a wind farm operator will submit a written report to the executive director describing the cause of the incident, where ascertainable, and any damage to the wind farm facility or to neighboring properties or persons, on a form provided by the board.
- (2) Each wind farm operator will also docket, in the wind farm certificate case, a final written report on a form provided by the board within sixty days after discovery of the incident, unless the wind farm operator:
 - (a) For good cause shown, demonstrates more time is needed; and
 - (b) Submits interim reports to the executive director at intervals of not more than sixty days until a final report is docketed.

(C) Each final written report will address:

- (1) Cause of the incident;
- (2) Date and time the incident occurred and date and time it was discovered;

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- (3) If the incident involved a turbine, the distance between debris and the wind turbine base;
 - (4) If the incident involved a turbine, the distance between debris to habitable structures and property lines, and photographs of the debris field;
 - (5) A narrative description of the incident and actions taken by the wind farm operator, including a timeline of events;
 - (6) What, if any, damage occurred to the property within the wind farm facility;
 - (7) What steps were necessary to repair, rebuild, or replace damage to any property within the wind farm facility;
 - (8) What, if any, personal injury was caused by, or related to, the incident.
 - (9) What, if any, damage to properties within or adjacent to the wind farm project area was caused by, or related to, the incident;
 - (10) What, if any, steps were, or will be, taken to prevent future incidents.
- (D) Staff investigation and restart
- (1) Staff will investigate every incident that results in a report being submitted pursuant to this rule. Except as necessary for public safety, a wind farm operator should not disturb any damaged property within the facility or the site of a reportable incident until after staff has made an initial site visit. Staff will make its initial visit to review any damaged property within three business days of the notice provided for in paragraph (A)(1) unless otherwise prohibited from accessing the area of the damaged property by public safety officials.
 - (2) A wind farm operator will not restart any damaged property within a facility involved in a reportable incident until such restart is approved by the board's executive director or the executive director's designee.
 - (3) Such approval is premised upon a complete and final written report fully addressing the factors set forth in paragraph (C) as well as a verification from a licensed professional engineer that the damaged property has been repaired and that it is safe to restart the damaged property.
 - (4) Unless otherwise suspended for good cause shown by the board, executive director, or an administrative law judge, a wind farm operator may restart damaged property seven days after docketing the final written report and professional engineer's verification.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/7/2020 4:43:12 PM

in

Case No(s). 19-0778-GE-BRO

Summary: Administrative Law Judge Entry scheduling workshop electronically filed by Heather A Chilcote on behalf of Michael L. Williams, Administrative Law Judge, Ohio Power Siting Board