

PROPOSED WYOMING COUNTY GUIDELINES FOR WIND ENERGY FACILITIES (revised 6/2/05)

There are many areas of Wyoming County with high wind speeds that are attractive to wind power developers. The only operating wind power project in Western New York is located in the Town of Wethersfield. There are also a number of projects being actively pursued by multiple project developers. Because New York State policy and programs are strongly encouraging the development of wind power, there is substantial momentum for building a large number of windmill projects in Wyoming County. It appears likely that project reviews will start in 2005.

According to a NYISO web site, the following WC projects have applied for a Interconnection Request to have access to a transmission line. If all of these projects were developed at the capacities listed below, this could lead to about 791 MW of wind power or almost 400 windmills.

1. Invenergy Wind, LLC
High Sheldon Windfarm, 198 MW
2/18/04, Project status: 2, FES pending
In-service: 2006/08
2. Zilkha Renewable Energy
Perry Wind Farm, 132 MW
2/8/05, Project status: 1, scoping meeting pending
In-service: 2006/11
3. Noble Environmental Power, LLC
Bliss Windfield, 71 MW
2/14/05, Project status: 1, scoping meeting pending
In-service: 2006/10
4. Noble Environmental Power, LLC
Wethersfield Windfield, 129 MW
2/14/05, Project status: 1, scoping meeting pending
In-service: 2007/10
5. Invenergy Wind, LLC (Orangeville, Warsaw)
Buffalo Road Wind Farm, 165 MW
2/23/05, Project status: 1, scoping meeting pending
In-service: 2007/09
- 6. NY Windpower, LLC (Orangeville)
Orangeville Wind, 96 MW
4/5/05, Project status: 1, scoping meeting pending
In-service: 2007/09

Because of their large scope and the extensive land base needed to support such projects, both county-wide and inter-community impacts can occur. Most rural communities have little or no experience reviewing and dealing with such large projects.

Therefore, the Wyoming County Board of Supervisors has recognized that county government has an important and appropriate role to play working in partnership with local municipalities. The following guidelines are intended to be a resource for local municipalities that are working on such projects. They are also intended to clarify how such projects can be planned to provide maximum benefits to the residents of Wyoming County.

Proposed Guidelines

1. The County encourages its municipalities to utilize county staff as needed for technical assistance from the start of project planning. A coordinated project planning and review process will be more efficient and can more easily identify and resolve any potential project issues.
2. A designated county government representative(s) needs to be actively involved in all payment-in-lieu-of-tax (PILOT) discussions and negotiations with project developers. This representative(s) should be someone other than the Supervisor of the Town where the project will be located. A representative from school districts may also need to be involved.
3. Any proposed PILOT agreement will need to be reviewed and approved by the Wyoming County Board of Supervisors. Until a PILOT agreement has been approved, the WC Board of Supervisors retains the right to opt out of providing the real property tax exemptions specified in NYS law. Town governments and school districts also retain the right to opt out.

The Board of Supervisors recognizes that the Town where the project is located should receive the largest share of PILOT payments. However, because these projects will likely generate significant county-wide and/or inter-community impacts, all local taxing jurisdictions need to receive an appropriate amount of PILOT revenues.

4. Those municipalities that will be acting as a lead agency for the SEQR process need to carry out a coordinated review process. Because of project size and magnitude it is expected that there will be a potential for significant adverse environmental impacts, which will require the preparation of an environmental impact statement. Because the cost of conducting project and environmental reviews will be substantial, lead agencies should require project applicants to reimburse the lead agency and/or municipality for all reasonable and appropriate expenses. A written agreement with the project

applicant regarding reimbursement needs to be in place prior to any action being taken by the lead agency and/or municipality.

5. The project applicant needs to provide adequate information in a long form EAF and subsequent Environmental Impact Statement about the following items:

- ◆ Clearly identify all applicable permits and approvals required. According to the NYS Dept. of State a windmill is not a structure that needs a building permit.
- ◆ Wetlands, streams, and floodplains should be avoided to the extent possible.
- ◆ Determine setback distances needed to provide adequate buffer zones between wind turbines and structures, property lines, roads, and scenic areas to deal with concerns such as ice throw or tower collapse, noise and visual impacts.
- ◆ Proposed projects need to show what the noise levels in decibels will be at certain distances from the wind turbines. Noise levels should not exceed 5 to 8 decibels over measured background levels at certain distances from the wind towers. Information should also be provided about noise frequencies and subsonic noise.
- ◆ Surveys of birds and bats, their migration patterns and determination of their protection status should be provided. Impacts on other animal species should also be provided.
- ◆ Plans for site and road work should be reviewed to ensure sufficient stormwater management and soil erosion control measures will be in place.
- ◆ Guidelines to avoid or minimize impacts on farm land and soils have been issued by NYS Agriculture and Markets. The attached guidelines need to be complied with.
- ◆ Visual impacts will be of great importance. A Visual EAF Addendum should be submitted. Visual simulation software can digitally simulate the view of a wind energy project from a variety of locations and in different light conditions. Municipalities should request the applicant to submit visualization maps and simulated project views in summer and winter conditions, and day and night conditions to help assess the visual impacts. The impacts of shadow flicker need to be specified.
- ◆ Cultural and archeological surveys should be conducted.

- ◆ Determine if the project is required to have a hazardous material handling plan approved by the NYS Dept. of Environmental Conservation.
 - ◆ The applicant needs to evaluate potential impacts from electromagnetic interference and minimize and mitigate any impacts.
6. The project applicant should submit a decommissioning plan that addresses the removal of the wind tower and turbine foundations. The following information should be provided in the plan. Requiring the project applicant to provide a bond to cover decommissioning costs would generally provide the best coverage.

According to the NYS Dept. of State a removal bond cannot be required in zoning regulations, but can be required in the PILOT agreement.

- ◆ The anticipated life of the project;
 - ◆ The estimated decommissioning costs per windmill in current dollars;
 - ◆ The method and schedule for updating the costs of decommissioning and restoration;
 - ◆ The method of ensuring that adequate funds will be available for decommissioning and restoration; and
 - ◆ The anticipated manner in which the project will be decommissioned and the site restored.
7. Municipalities should document local road conditions in the vicinity of the project prior to construction. Project approval should stipulate that the developer restore any road damage to the documented pre-construction conditions.
8. The applicant needs to provide proof of adequate insurance coverage.
9. The developer should provide for post construction inspection and certification that the wind towers were installed properly.

NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS

**Guidelines for
Agricultural Mitigation for Wind Power Projects**

The following recommendations and guidelines shall apply to construction areas for wind power construction projects located in County adopted, State certified agricultural districts. The project sponsor is encouraged to coordinate with the New York State Department of Agriculture and Markets (Ag. and Markets) to develop an appropriate schedule for milestone inspections to assure that the goals of these guidelines are being met. For larger projects, the project sponsor shall hire an Environmental Monitor to oversee the construction and restoration in agricultural fields.

Siting Recommendations/Goals

Minimize impacts to normal farming operations by locating structures along field edges and in nonagricultural areas where possible.

Locate access roads, which cross agricultural fields, along ridge tops where possible to eliminate the need for cut and fill and reduce the risk of creating drainage problems.

Avoid dividing larger fields into smaller fields, which are more difficult to farm, by locating access roads along the edge of agricultural fields and in nonagricultural areas where possible.

All existing drainage and erosion control structures such as diversions, ditches, and tile lines shall be avoided or appropriate measures taken to maintain the design and effectiveness of the existing structures. Any structures disturbed during construction shall be repaired to as close to original condition as possible, as soon as possible, unless such structures are to be eliminated based on a new design.

Construction Guidelines

The surface of access roads constructed through agricultural fields shall be level with the adjacent field surface.

Where necessary, culverts and waterbars shall be installed to maintain natural drainage patterns.

All topsoil must be stripped from agricultural areas used for vehicle and equipment traffic and parking. All vehicle and equipment traffic and parking shall be limited to the access road and/or designated work areas such as tower sites and laydown areas. No vehicles or equipment will be allowed outside the work area without prior approval from the landowner and, when applicable, the Environmental Monitor.

Topsoil from work areas (tower sites, parking areas, "open-cut" electric cable trenches, along access roads) shall be stockpiled separate from other excavated material (rock and/or subsoil). At least 50 feet of temporary workspace is needed along "open-cut" electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. Topsoil stockpile areas shall be clearly designated in the field and on the on-site "working set" of construction drawings.

In cropland, hayland and improved pasture a minimum depth of forty-eight inches of cover will be required for all buried electric cables. In unimproved grazing areas and land permanently devoted to pasture, a minimum depth of thirty-six inches of cover will be required. In areas where the depth of soil over bedrock ranges from zero to forty-eight inches, the electric cables shall be buried entirely below the top of the bedrock or at the depth specified for the particular land use whichever is less. At no time will the depth of cover be less than twenty-four inches below the soil surface.

All excess subsoil and rock shall be removed from the site. On site disposal of such material may be allowed if approved by the landowner and, when applicable, the Environmental Monitor, with appropriate consideration given to any possible agricultural or environmental impacts.*

In pasture areas, work areas will be fenced to prevent livestock access, consistent with landowner agreements.

All pieces of wire, bolts, and other unused metal objects will be picked up and properly disposed of as soon as practical after the unloading and packing of turbine components so that these objects will not be mixed with any topsoil.*

Excess concrete will not be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.*

Restoration Guidelines

Following construction, all disturbed agricultural areas will be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement. Following decompaction, all rocks 4 inches and larger in size will be removed from the surface of the subsoil prior to replacement of the topsoil. The topsoil will be replaced to original depth and the original contours will be reestablished where possible. All rocks 4 inches and larger shall be removed from the surface of the topsoil. Subsoil decompaction and topsoil replacement should be avoided after October 1, unless approved on a site-specific basis by the landowner in consultation with Ag. and Markets. All parties involved should be cognizant that areas restored after October 1st may not obtain sufficient growth to prevent erosion over the winter months. If areas are to be restored after October 1st, some provision should be made to restore any eroded areas in the springtime, to establish proper growth.

All access roads will be regraded to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the design.

All restored agricultural areas shall be seeded with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.

All surface or subsurface drainage structures damaged during construction shall be repaired to as close to preconstruction conditions as possible, unless said structures are to be removed as part of the project design.

Following restoration, all construction debris will be removed from the site.

(*Any permits necessary for disposal under local, State and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.)

Two Year Monitoring and Remediation

The Project Sponsor will provide a monitoring and remediation period of no less than two years immediately following the completion of initial restoration. The two year period allows for the effects of climatic cycles such as frost action, precipitation and growing seasons to occur, from which various monitoring determinations can be made. The monitoring and remediation phase will be used to identify any remaining agricultural impacts associated with construction that are in need of mitigation and to implement the follow-up restoration.

General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed fences, etc. Impacts will be identified through on site monitoring of all agricultural areas impacted by construction and through contact with respective farmland operators and the Department of Agriculture and Markets.

Topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the affected site. Excessive amounts of rock and oversized stone material will be determined by a visual inspection of disturbed areas as compared to portions of the same field located outside the construction area. All excess rocks and large stones will be removed and disposed of by the Project Sponsor.

When the subsequent crop productivity within affected areas is less than that of the adjacent unaffected agricultural land, the Project Sponsor as well as other appropriate parties, will help to determine the appropriate rehabilitation measures to be implemented. Because conditions which require remediation may not be noticeable at or shortly after the completion of construction, the signing of a release form prior to the end of the remediation period will not obviate the Project Sponsor's responsibility to fully redress all project impacts.

Subsoil compaction shall be tested using an appropriate soil penetrometer or other soil compaction measuring device. Compaction tests will be made for each soil type identified on the affected agricultural fields. The subsoil compaction test results within the affected area will be compared with those of the adjacent unaffected portion of the farm field/soil unit. Where representative subsoil density of the affected area exceeds the representative subsoil density of the unaffected areas, additional shattering of the soil profile will be performed using the appropriate equipment. Deep shattering will be applied during periods of relatively low soil moisture to ensure the desired mitigation and to prevent additional subsoil compaction. Oversized stone/rock material which is uplifted to the surface as a result of the deep shattering will be removed.