

Dedicated to those suggestions which were not incorporated.

Kris Pastoriza

Easton, NH

10/1/15

CHAPTER Site 300 CERTIFICATES OF SITE AND FACILITY

Part Site 301 REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATES

Site 301.03 Contents of Application.

(a) Each applicant for a certificate of site and facility for an energy facility shall file with the committee one original and 15 paper copies of its application and an electronic version of its application in PDF format, unless otherwise directed by the chairperson or the administrator, after consultation by the chairperson or administrator with the appropriate state agencies and this application shall be signed and sworn to by the person, or the executive officer of the association or corporation, making such application.

(b) The committee or the administrator shall:

(1) Acknowledge receipt of an application filed under site 301.01 (a) in writing directed to the applicant;

(2) Forward a copy of the application and acknowledgement to each member of the committee;

(3) Forward a copy of the application to each state agency required to receive a copy under site 301.10 (a) and (b); and

(4) Post a copy of each application on the committee's website.

Site 301.02 Format of Application.

(a) Paper copies of application shall be prepared on standard 8 ½ x 11 inch sheets, and plans, maps, photo-simulation and other oversized documents shall be folded to that size or rolled and provided in protective tubes. Electronic copies of applications shall be submitted through electronic mail, on compact discs or in an electronic file format compatible with the computer system of the commission, including details on how to appropriately view photosimulations on computer screens.

(b) Each application shall contain a table of contents.

(c) All information shall appear in the same order as the requirements to provide that information appear in Site 301.03 through 301.09.

(d) If any numbered item is not applicable or the information is not available, an appropriate comment shall be made so that no numbered item shall remain unanswered.

(e) To the extent practical, copies of application shall be double-sided.

Site 301.03 Contents of Application.

(a) Each applicant for a certificate of site and facility for an energy facility shall be signed and sworn to by an authorized executive officer of the corporation, company, association, or other organization making the application.

(b) Each application shall include the information contained in this paragraph and in (c) through (h) below, as follows:

(1) The name of the applicant;

(2) The applicant's mailing address, telephone and fax numbers and e-mail address.

(3) The name and address of the applicant's parent company, association or corporation if the applicant is a subsidiary;

(4) If the applicant is a corporation;

(a) The state of incorporation;

(b) The corporation's principal place of business; and

(c) The names and addresses of its directors, officers and stockholders;

(5) If the applicant is a limited liability company:

(a) The state of the company's organization;

(b) The company's principal place of business; and

(c) The names and addresses of the company's members, managers and officers;

(6) If the applicant is an association, the names and addresses of the residences of the members of the association;

(7) Whether the applicant is the owner or lessee of the site or facility or has some legal or business relationship to it, including a description of that relationship; and

(8) A statement of assets and liabilities of the applicant.

(Site 301.03 continued)

(c) Each application shall contain the following information with respect to the site of the proposed energy facilities and alternative locations of which the applicant has confirmed ownership.

(1) The location(s) and address(es) that comprise the site of the proposed facility;

(2) Site acreage, shown on an attached property map and located by scale on a U.S. Geological Survey or GIS map.

(3) The location, shown on a map, of property lines, buildings, schools, playgrounds, day-care centers, businesses, industrial buildings, and other structures and improvements within or adjacent to the site;

(4) Identification of wetlands, surface waters of the state, and first through third order streams within or adjacent to the site;

(5) Identification of natural, historic, cultural and other resources at or within or adjacent to the site. Identification of all public and private conservations lands.

(6) An attorney letter verifying that the applicant has secured legal access to all land necessary to build the proposed project, accompanied by any and all necessary documentation to prove such legal access.

(7) Information related to whether the proposed site and facility will unduly interfere with the orderly development of the region having given due consideration to the view of municipal and regional planning commissions and municipal governing boards.

(8) Evidence that the applicant has a current or conditional right of access to private property within the boundaries of the proposed energy facility site sufficient to accommodate a site visit by the committee, which private property, with respect to energy transmission pipelines under the jurisdiction of the Federal Energy Regulatory Commission, may be limited to the proposed locations of all above-ground structures and a representative sample of the proposed locations of underground structure or facilities.

(9) Evidence of the performance of any required pre-construction monitoring or studies.

(10) Identification of all participating landowners with respect to the proposed facility and a description of the affected properties owned by such participating landowners and the scope of the waivers included in their participating landowner agreements, easements, or other contractual documents. Applicant retains an on-going requirement to update this information should additional landowners participate with the project.

(d) Each application shall include information about other required applications and permits as follows;

(Site 301.03 continued)

(1) Identification of all other federal and state government agencies having permitting or other regulatory authority, under state or federal law, or non-regulatory interest, in any aspect of the construction or operation of the proposed facility;

(2) Documentation that demonstrates compliance with the application requirements of such agencies;

(3) A copy of the completed application form for each such agency; and

(4) Identification of any requests for waivers from the information requirements of any state agency or department whether represented on the committee or not.

(e) If the application is for an energy transmission pipeline, the application shall include:

(1) The type of facility being proposed;

(2) A description of the process to extract, produce, manufacture, transport, or refine the source of energy, if applicable, and locations of the source.

(3) The facility's size, configuration and incineration zone;

(4) The ability to increase the capacity of the facility in the future;

(5) Raw materials used or transported, as follows:

(a). An inventory, including amounts and specifications;

(b) A plan for procurement, describing sources and availability;

(c) A description of the means of transporting; and

(6) Production information, as follows:

(a) An inventory of products and waste streams;

(b) The quantities and specifications of hazardous materials;

(c) Waste management plans, and

(7) A plan showing the entire facility, including, in the case of an energy transmission pipeline, the location of each compressor station, pumping station, storage facility, and other ancillary facilities associated with the facility, and the corridor width in the case of a proposed new route or widening along an existing route.

(Site 301.03 continued)

(f) If the application is for an electric generating unit which is either a bulk power facility or a renewable energy facility, the application shall include the following information:

(1) Make, model and manufacturer of each turbine and generator unit;

(2) Capacity in megawatts, as designed and as intended for operation;

(3) Type of turbine and generator unit, including:

(a) Fuel used;

(b) Method of cooling discharge;

(c) Whether the unit will serve base, immediate or peaking loads; and

(d) Unit efficiency.

(4) Any associated new substations, generator or interconnection lines and transmission lines, whether identified by the applicant or through a system impact study conducted by or on behalf of the interconnecting utility or ISO New England, Inc.

(5) Performance metrics for the proposed facility:

(a) Correlation of power produced by month/time of day with 3-year monthly average load/demand as defined by ISO-NE.

(b) Clearly defined transmission costs in state and out.

(c) Capacity factors by month versus other generation options

(d) Output per square meter/acre of land versus other generation options.

(e) If proposed plant is non-dispatchable and requires spinning reserve backup via a dispatchable generation source, projected "redundancy" costs for that back-up source.

(f) If proposed plant requires electricity from the grid to help run it, state net gain/loss projection between what is required to run the plant and the plant's output.

(g) If the plant requires a fixed cost PPA versus participating in ISO-NE day ahead market every day, then rationale as to why 98% of generation is priced in the day ahead market but this particular plant is not and how this benefits ratepayers.

(h) For non-dispatchable sources, proposed plant needs to demonstrate how it will:

(Site 301.03 continued)

- (1) Perform in scarcity conditions as defined by ISO-NE.
- (2) Contribute to lower and/or stable pricing in the FCM.
- (3) Correlate with load/demand throughout year.
- (4) Provide reliability/security to the grid.

(6) Construction schedule, including start date and scheduled completion date.

(7) Copy of system impact study report for interconnection of the facility as prepared by or on behalf of ISO New England, Inc. or the interconnecting utility including the effects on the ISO of the temporal synchronization of wind turbine operations.

(g) If the application is for a transmission line or an electric generating facility with an associated transmission line, the application shall include the following information:

(1) Location shown on U.S. Geological Survey Map;

(2) Documentation that the proposed facility is permitted in the terms of the ROW easement, for transmission lines. Condemnation proceedings shall be accepted as documentation of easement conditions not stated in other easement documents. No elective projects shall be permitted on ROWs acquired in whole or part by eminent domain.

(3) A map showing the entire electric transmission of distribution line project, including the height and location of each pole or tower, the distance between each pole or tower, and the location of each substation, switchyard, converter station and other ancillary facilities associated with the project;

(4) Corridor width for new route or widening along existing route, with presently cleared and uncleared areas of ROW indicated.

(5) Length of line;

(6) Distance along new route;

(7) Distance along existing route;

(8) Voltage (design rating);

(9) Any associated new generating unit or units;

(10) Type of construction (described in detail);

(Site 301.03 continued)

(11) Magnetic Field modeling. Provide all assumptions used to model magnetic field levels including:

(a) Pole design diagram that includes the dimensions of arms, dimensions of conductor locations, horizontal distance from the pole to the conductors, and the distance of conductors from the ground at the pole.

(b) Height of lowest conductor(s) at mid-span.

(c) Depth from ground surface to circuits, for underground construction

(12) Construction schedule, including start date and schedule completion date; and

(13) Impact on system stability and reliability.

(14) Whether the project is elective or defined by ISO as for reliability.

(h) Each application shall include the following:

(1) A description in detail of the type and size of each major part of the proposed facility;

(2) Identification of the applicant's preferred location and any other options for the site of each major part of the proposed facility;

(3) A description in detail of the impact of each major part of the proposed facility on the environment for each site proposed;

(4) A description in detail of the applicant's proposals for studying and solving environmental problems;

(5) Documentation that the applicant has held at least two public sessions (located so as to minimize driving for those attending) in each county where the proposed facility is to be located at least 30 days prior to filing its application, pursuant to RSA 162-H:10, I and Site 201.01:

(6) A statement of assets and liabilities of the applicant; and

(7) Documentation that written notification of the proposed project, including appropriate copies of the application, has been given to the governing body of each community in which the facility is proposed to be located and that written notification of the application filing, including information regarding means to obtain an electronic or paper version of the application, has been sent by first class mail to the governing body of each of the affected communities.

(Site 301.03 continued)

(8) Documentation that notice of this information session has been published in at least three newspapers in common circulation in the host and affected communities

(9) Information regarding the cumulative impacts of the proposed energy facility on humans, wildlife, habitat, recreational, historic and cultural resources, health and safety, water resources, including, with respect to aesthetics, the potential impacts of combined observation, successive observation and sequential observations of energy facilities by the viewer. All information regarding the cumulative impacts of all kinds shall be constantly evaluated and assessed in accordance with current scientific evidence.

(10) Information describing how the proposed facility will be consistent with the public interest, including the specific criteria set forth in Site 301.16 (a)-(d); and

(11) Pre-filed testimony and exhibits supporting the application.

(i) Applicants are encouraged to consult with other parties with relevant knowledge and expertise, including but not limited to municipal officials, nongovernmental organizations, academic institutions and resource professionals, for input both on issues that need to be addressed by impact studies and on the appropriate methodologies for conducting such studies.

Site 301.04 Financial, Technical and Managerial Capability. Each application shall include a detailed description of the applicant's financial, technical, and managerial capability to construct and operate the proposed facility, as follows:

(a) Financial information shall include:

(1) A description of the applicant's experience financing other energy facilities, including cost overruns.

(2) A description of the corporate structure of the applicant, including a chart showing the direct and indirect ownership of the applicant.

(3) A description of the applicant's financing plan for the proposed facility, including the amounts and sources of funds required for the construction, operation and decommissioning of the proposed facility'

(4) an explanation of how the applicant's financing plan compares with financing plans employed by the applicant of its affiliates, or by unaffiliated project developers, if and to the extent such information is publicly available, if no such plans have been employed by the applicant or its affiliates for energy facilities that are similar and size and type to the proposed facility, including any increased risks or costs associated with the applicant's financing plan.

(5) Current pro forma statements of assets and liabilities and other projects anticipated or being undertaken by the applicant.

(Site 301.04 continued)

(b) Technical information shall include:

(1) A description of the applicant qualifications and experience in constructing and operating energy facilities, including projects similar to the proposed facility; and

(2) A description of the experience and qualifications of any contractors or consultants engaged or to be engaged by the applicant to provide technical support for the construction and operation of the proposed facility.

(3) A complete description, including limitations and tolerances, of any technical models used to justify their application, or used as substitutes for actual measurements of the expected meteorological effects of a facility, on its visual impact, noise generation and broadcast, shadow flicker, and icing and throw-off, and the meteorological and topographical data used in such models.

(c) Managerial information shall include:

(1) A description of the applicant's management structure for the construction and operation of the proposed facility, including an organizational chart for the applicant;

(2) A description of the qualifications of the applicant and its executive personnel to manage the construction and operation of the proposed facility; and

(3) To the extent the applicant plans to rely on contractors or consultants for the construction and operation of the proposed facility, a description of the experience and qualifications of the contractors and consultants.

Site 301.05 Effects on Aesthetics.

(a) Each application shall include a Visual Impact Analysis (VIA) using generally accepted professional standards as follows. The VIA shall be of sufficient detail and geographic scope to allow the Committee and the public to understand and evaluate the potential impact of the proposed facility on the aesthetic character of viewpoints from which it will be clearly visible.

(b) The visual impact analysis shall contain the following components:

(1) A detailed project description and map depicting the locations of the proposed facility and all associated buildings, structures, roads and other ancillary components, including the size, location and appearance of all facility structures, infrastructure and areas to be cleared or graded.

(2) A narrative and graphic description, including maps and photographs of the physiographic, historical and cultural features and landscapes surrounding the proposed facility to provide the context for evaluating visual impacts.

(Site 301.05 continued)

(3) A description and discussion of alternatives that were considered during project development.

(4) A description and discussion of best practical mitigation to avoid or minimize adverse aesthetic impacts of the facility.

(5) A computer-based visibility based on the best publicly-available topographic and land cover data to determine the area of visual impact in leaf-off conditions which, for proposed:

(a) Wind energy projects shall extend to 50 mile from any turbine.

(b) Electric transmission lines shall extend to 10 miles from any structure or ROW.

(6) The VIA shall include a general description and map of the visual analysis zone, including topography, major landforms and natural features, public and conservation lands and recreational areas, public roads, town and village centers, and land cover (e.g. forest, open, agriculture, residential, developed, etc.).

(7) The VIA shall identify all parts of the landscape within the visual analysis zone from which any part of any turbine or transmission tower will be potentially visible, based on bare ground conditions (i.e. topographic screening only.) The analysis shall use the highest resolution topographic data available, with a horizontal resolution (raster pixel size) of no more than 30 meters. The analysis shall quantify the extent of project visibility (e.g., number of turbines or towers).

(8) The VIA shall identify visually sensitive viewpoints within the visual analysis zone from which the facility will be visible, which may include (but are not limited to) Scenic Viewpoints, town or village centers, major public roads, cultural areas or facilities, major water bodies or rivers, and residential areas. Identification of visually sensitive viewpoints shall consider:

(a) The significance of the viewpoint, based on factors such as:

(1) The level of use.

(2) The uniqueness of the viewpoint relative to other viewpoints in the region.

(3) Characterization of the viewpoint in public land management plans, town master plans or other public documents.

(4) Identification of the viewpoint in guidebooks or other published materials.

(b) The existing aesthetic quality of the viewshed seen from the viewpoint, based on factors such as:

(Site 301.05 continued)

- (1) The horizontal breadth of the viewshed (i.e. panoramic or narrow).
 - (2) The visual diversity of the viewshed, including topographic and vegetative diversity and the presence of distinctive features such as prominent summits, lakes or rivers.
 - (3) The nature and extent of existing industrial/commercial land use and development.
 - (4) The intactness of the viewshed (i.e., the presence or absence of discordant or distracting elements).
 - (5) The uniqueness of the viewshed relative to other scenic resources in the state.
- (9) Scenic Viewpoints of particularly high public value beyond the extent of the visual analysis zone, and from which the facility would be clearly visible, shall be considered for inclusion as visually sensitive viewpoints.
- (10) For all visually sensitive viewpoints identified in Sections 8 and 9, the VIA shall categorize the potential aesthetic impact or the proposed facility and of any visible plume that would emanate from the proposed facility, on identified scenic viewpoints as Low, Medium or High based on consideration of factors such as:
- (a) The expectations of the typical viewer.
 - (b) The effect on future use and enjoyment of the viewpoint.
 - (c) The extent of the facility (including all structures and disturbed areas) visible from the viewpoint.
 - (d) The distance of the facility from the viewpoint.
 - (e) The horizontal breadth (visual arc) of visible facility elements.
 - (f) The scale of the facility relative to surrounding topography and existing structures.
 - (g) The elevation of the facility above the elevation of an observer.
 - (h) The duration and direction of the typical view.
 - (j) The effect of facility lighting on nighttime use and enjoyment of the viewpoint.
 - (k) For wind turbines, the effect of the elevated and isolated nature of the facility, including its increased prominence, its meteorological visibility, and the added visual impact of its flashing lights, blade motion, and noise.

(Site 301.05 continued)

(l) The cumulative impact of the facility in combination with other existing energy facilities, those projects who have filed applications with the SEC and those projects which have spent more than \$10,000. in project development costs.

(11) The VIA shall include visual simulations of the facility as follows:

(a) Photosimulations will be prepared from all visually sensitive viewpoints deemed by the analysis of Section 12 to have a High level of potential impact, as well as a representative sample of views of characteristic landscapes from other visually sensitive viewpoints, public roads, town and village centers, private properties (to the extent possible), and residential areas, to illustrate the change in the landscape that would result from construction of the proposed facility and associated infrastructure including land clearing and grading and road construction, and from any visible plume that would emanate from the proposed facility.

(b) Simulations shall include comparative photographs of both the current condition and the simulated appearance of the facility.

(c) Simulations shall represent conditions of maximum visibility of the facility based on atmospheric conditions, sun angle and other relevant factors.

(d) Photographs used in the simulation shall be taken at high resolution and contrast, using a full frame digital camera with an equivalent focal length of 50 millimeters and represent the equivalent of what would be taken with a 75 millimeter focal length lens on a full frame 35 millimeter camera and printed at 15.3 inches by 10.3 inches or 390 millimeters by 260 millimeters; all photosimulations shall represent leaf-off conditions, at least 1/3 shall represent winter conditions. Photosimulations shall meet the following additional requirements:

(1) Field conditions in which a viewpoint is photographed shall be recorded including:

(2) Global Positioning system location points with an accuracy of at least 3 meters for each simulation viewpoint to ensure repeatability;

(3) Camera make and model and lens focal length.

(4) All camera settings at the time when the photograph is taken; and

(g) When simulating the presence of proposed wind turbines, the following shall apply:

(1) Turbines shall be placed with full frontal views and have no haze or fog effect applied.

(Site 301.05 continued)

(2) Turbines shall represent the shape of the intended turbines for a project including the correct hub height and rotor diameter;

(3) Turbine blades shall be set at random angles with some turbines showing a blade in the 12 o'clock position; and

(4) The lighting model used to render wind turbine elements shall correspond to the lighting visible in the base photograph.

(5) A video or a turbine or turbines in a similar location, comprising 1000 ten-second sections, randomly selected, day and night, sunny and cloudy, all kinds of weather, and sunrises and sunsets, shall be submitted.

(13) If the facility is required by Federal Aviation Administration regulations to install aircraft warning lighting, then the VIA shall characterize the impact of this lighting including the distance from which lighting will be visible on a clear night and the number of lights visible from key observation points and representative public and private properties.

Site 301.06 Effects on Historic Sites: Each application shall include the following information regarding the identification of historic sites, and plans for avoiding or minimizing adverse effects as defined in 36 C.F.R. § 800.5(a)(1) (An adverse effect is found when an undertaking may alter, directly, or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been indentified subsequent to the original evaluation of the property's eligibility for the National Register.) Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative) from the proposed facility on historic sites, including those:

(1) Listed to, or eligible for listing to, the New Hampshire Register of Historic Places;

(2) Designated by a Municipal Heritage Commission;

(3) Listed in published guidebooks.

(a) Demonstration that project review of the proposed facility has been initiated for purposes of compliance with Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108, or RSA 227-C:9

(b) Identification of all historic sites, regions and areas of potential archaeological sensitivity located within the area of potential effects, as defined in 36 C.F.R. 800.16(d) , but not limited to such definition.

(Site 301.06 continued)

(c) Finding by the Division of Historical Resources of the Department of Cultural Resources and, if applicable, the lead federal agency, of no historic properties affected, or no adverse effects to historic properties.

(d) Description and evaluation of the best measures planned to avoid or minimize adverse effects on historic sites, as listed in section (b), and alternative measure considered but rejected by the applicant.

(e) Description of the applicant's plans to implement measures identified pursuant to (d) above; and

(f) Description of the status of the applicant's consultations with the Division of Historic Resources of the Department of Cultural Resources, and, if applicable, the lead federal agency, and consulting parties as defined in 36 C.F.R. 800.2 (c).

(1) In determining whether a proposed energy facility will have an unreasonable adverse effect on historic sites, the committee shall:

(a) Consider the nature and significance of the historic and archaeological resources identified by the applicant, the New Hampshire Division of Historical Resources, the federal lead agency, if applicable, and consulting parties.

(b) Consider the effectiveness of the measures proposed by the applicant to avoid or minimize adverse effects on historic and archaeological resources; and

(c) Consider the status of the applicant's consultations with the New Hampshire Division of Historical Resources and, if applicable, the federal lead agency.

Site 301.07 Effects on Environment. Each application shall include the following information regarding the effects of, and plans for avoiding or minimizing adverse effects of the proposed facility on air quality, water quality, natural communities, the natural environment, wildlife and humans:

(a) Description of how the applicant identified significant wildlife species, rare plants, rare natural communities and other exemplary natural communities potentially affected by construction and operation of the proposed facility including include documentation summarizing communications with natural resource agency personnel, other natural resource professionals including but not limited to the New Hampshire Fish and Game Department, U.S. Fish and Wildlife Service, and N.H. Natural Heritage Bureau, and residents of towns affected by the proposed project.

(b) Identification of known or potential occurrences of rare, threatened, and endangered plants and exemplary natural communities in the project area; a list of rare, threatened, and endangered

(Site 301.07 continued)

plants and exemplary natural communities potentially affected by the project; an assessment of potential effects on such plants and natural communities; and proposed best practical mitigation for any adverse effects.

(c) Identification of known or potential occurrences of significant wildlife species in the project area; a list of significant wildlife species potentially affected by the project; an assessment of potential effects on such wildlife species; and proposed best avoidance or mitigation for any adverse effects.

(d) A report, prepared by a qualified professional, identifying and describing any critical wildlife habitat (as designated by the U.S. Fish and Wildlife Service) and any significant habitat resources within the project area; a list of critical wildlife habitat and significant habitat resources potentially affected by the project; an assessment of potential effects on such habitats and habitat resources; and proposed best practical avoidance and minimization for any adverse effects.

(e) Pre-application surveys for evidence of significant wildlife species following pertinent, available protocols recommended by state and federal wildlife agencies, unless waived in writing by state and federal wildlife agencies.

(f) A cumulative impacts assessment, in consultation with state and federal wildlife agencies, addressing the scope and scale of potential effects of the facility, in combination with other existing or proposed energy development, on populations of significant wildlife species.

Site 301.08 Effects on Public Health and Safety: Each application shall include the following information regarding the effects of, and plans for avoiding and minimizing adverse effects of the proposed facility on public health and safety.

(a) For proposed Industrial Wind Energy Systems:

(1) A sound impact prepared in accordance with professional standards by an expert in the field, which assessment shall include the reports of a preconstruction sound background study and a sound modeling study as specified in Site 310.18

(2) Description of setbacks that indicate the distance between each wind turbine and the nearest landowner's existing buildings and property line, and between each wind turbine and the nearest public road, including class six roads, and public hiking trails, overhead and underground utility lines and any gas pipelines within five miles, and explain why the indicated distances are adequate to protect the public from risks associated with the operation of the proposed wind energy facility;

(Site 301.08 continued)

(3) An assessment of the risks of ice throw (including an assessment of the meteorological factors, particularly the wind direction, which determine both the icing accumulation and its throw-off), blade shear, fire and tower collapse on public safety, including the distances at which such events may have an impact and the best practical measure taken or planned to avoid or minimize the occurrence of such events.

(4) A demonstration that the facility will not interfere with the weather radars used for severe storm warnings, and will not interfere with any local weather radars.

(5) Description of the lightning protection system planned for the proposed facility.

(6) Description of any determination made by the Federal Aviation Administration regarding whether any hazard to aviation is expected from any of the wind turbines included in the proposed facility, and describe the Federal Aviation Administration's lighting, turbine color and other requirements for the wind turbines;

(7) A decommissioning plan prepared by an independent, qualified person with demonstrated knowledge and experience in wind generation projects and cost estimates, which plan shall provide for removal of all structures and restoration of the facility site with a description of sufficient and secure funding to implement the plan, which shall not account for the anticipated salvage value of facility components or materials, including the provision of financial assurance in the form of an irrevocable standby letter of credit, performance bond, surety bond, or unconditional payment guaranty which should for the life of the project have a constant credit worthiness test and the financial assurance is to be unconditional and immediately payable and a backstop provision if the bank, insurance company or parent company loses its investment grade rating.

(8) A plan for fire protection for the proposed facility prepared by or in consultation with a fire safety expert.

(9) A plan for emergency response to the proposed facility site;

(10) For all energy facilities: an assessment of operational sound associated with the proposed facility, if the facility would involve use of equipment that might reasonably be expected to increase sound by 5 decibel A-weighted (dBA) or more over background levels (measured at the L-90 sound level) at the property boundary of the proposed facility site or, in the case of an electric transmission line or an energy transmission pipeline, at the edge of the right-of-way or the edge of the property boundary if the proposed facility, or portion thereof, will be located on land owned, leased or otherwise controlled by the applicant or an affiliate of the applicant;

(11) For electric transmission facilities, an assessment of electric and magnetic fields generated by the proposed facility and the potential impacts of such fields on public health and safety, based on current scientific knowledge. Such plan shall include:

(Site 301.08 continued)

(a) The number and type of each building or area within the following distance categories- as estimated from the edge of the ROW: 0-25 feet, 26-50 feet, 51-100 feet, and 151-300 feet. Types of building include homes, apartments, schools, daycare centers, hospitals, commercial/industrial buildings and playgrounds.

(b) Detailed magnetic field profiles for each unique structure type or circuit configuration (new and existing) M.R. profiles to be measured from the ROW centerline out to a distance of 300 feet on each side of the centerline, at intervals of 25 feet, including at the edge of the ROW at one meter above ground level.

(c) For routes that would affect existing electric lines, provide magnetic field profiles for the existing lines and a post-construction scenario that incorporates the new and the existing lines. Mitigation methods should include:

(1) Increasing the distance between the transmission line and the public's exposure to the magnetic fields;

(2) Bringing lines closer together (magnetic fields interfere with one another, producing a lower overall magnetic field level, too close could cause arcing between the lines.)

(3) Burying transmission lines to reduce magnetic fields.

(d) For routes that would have multiple adjacent underground circuits, provide magnetic field profiles for each set of circuit configurations.

(e) Estimated magnetic field data which include:

(1) Estimate for proposed lines at 80 percent and at 100 percent of peak load for one year post-construction and 10 years post construction. For existing lines, use present day loadings to estimate the magnetic field levels.

(2) Expected current levels for 80 and 100 percent of peak load at one and ten years post-construction,

Site 301.09 Effects on Orderly Development of the Host and Affected Communities. Each application shall include information regarding the effects of the proposed facility on the orderly development of the host and affected communities as well as the host and affected communities for the source of the energy proposed to be used in transmission projects, including the views of municipal governing bodies and regional planning commissions, if the latter do not contravene the former. Such views may be expressed in writing, master plans, zoning ordinances, by the aforementioned host and affected municipalities and unincorporated places. Such information shall include the effects of the construction of the proposed facility on:

(1) Land use in the region, including the following:

(a) A description of the prevailing land uses in the host communities and communities abutting and impacted by the proposed facility; and

(b) A description of how the proposed facility is consistent with such land uses and identification of how the proposed facility is inconsistent with such land uses;

(c) The economy of the region, including an assessment of:

(1) The economic effect of the facility on the host communities and communities abutting and impacted by the proposed facility;

(2) The effect of the proposed facility on tourism and recreation in the proposed facility host and affected municipalities and unincorporated places, and other municipalities and unincorporated places that are the subject of or covered by studies included with or referenced in the application.

(3) The effect of the proposed facility on State, host, and impacted community's and local tax revenues, based on an independent review.

(4) The effect of the proposed facility on host, and impacted communities and regional real estate values;

(5) The effect of the proposed facility on community services and regional infrastructure; including, but not limited to emergency services and highway; (Define "Impacted Community" as a municipality that is neither the host nor abutting town although it will potentially be impacted by aesthetics, financially or due to health/safety concerns.)

Site 301.10 Completeness Review and Acceptance of Applications for Energy Facilities.

(a) Upon the filing of an application for an energy facility, the committee shall forward to each of the other state agencies having permitting or other regulatory authority, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, a copy of the application for the agency's review as described in RSA 162-H:7, IV.

(b) The committee also shall forward a copy of the application to the department of Fish and Game, the Department of Health and Human services, the Division of Historical Resources of the Department of Cultural Resources, the Natural Heritage Bureau, the Governor's Office of Energy and Planning, and the Division of Fire Safety of the Department of Safety, unless any such agency or office has been forwarded a copy of the application under (a) above.

(c) Upon receiving an application, the committee shall conduct a preliminary review to ascertain if the application contains sufficient information for the committee to review the application under RSA 162-H and these rules.

(Site 301.10 continued)

(d) Each state agency having permitting, other regulatory authority, or interest, shall have 45 days from the time the committee forwards the application to notify the committee in writing whether the application contains sufficient information for its purposes.

(e) Within 60 days after the filing of the application, the committee shall determine whether the application is administratively complete and has been accepted for review.

(f) If the committee determines that an application is administratively incomplete, it shall notify the applicant in writing, specifying each of the areas in which the application has been deemed incomplete.

(g) If the applicant is notified that its application is administratively incomplete, the applicant may file a new and more complete application or complete the filed application by curing the specified defects within 10 days of the applicant's receipt of notification of incompleteness.

(h) If, within the 10-day time frame, the applicant files a new and more complete application or completes the filed application, in either case curing the defects specified in the notification of incompleteness, the committee shall, no later than 14 days after receipt of the new or completed application, accept the new or completed application.

(i) If the new application is not complete or the specified defects in the filed application remain uncured, the committee shall notify the applicant in writing of its rejection of the application and instruct the applicant to file a new application.

Site 301.11 Exemption Determination.

(a) Within 60 days of acceptance of an application or the filing of a petition for exemption, the committee, with the approval of host and affected municipalities, shall exempt the applicant from the approval and certificate provisions of RSA 162-H and these rules, if the committee finds that:

(1) Existing state or federal statutes, state or federal agency rules or municipal ordinances provide adequate protection of the objectives set forth in RSA 162-H:1;

(2) Consideration of the proposed energy facility by only selected agencies represented on the committee is required and the objectives of RSA 162-H:1 can be met by those agencies without exercising the provisions of RSA 162-H;

(3) Response to the application or request for exemption from the general public, provided through written submissions or in the adjudicative proceeding provided for in (b) below, indicates that the objectives of RSA 162-H:1 are met through the individual review processes of the participating agencies; and

(4) All environmental impacts or effects are adequately regulated by other federal, state, or local statutes, rules, or ordinances.

(b) The committee shall make the determination described in (a) above after conducting an adjudicative proceeding that includes two public hearings held in the county or counties where the energy facility is proposed to be located.

Site 301.12 Timeframe for Application Review.

(a) Pursuant to RSA 162-H:7, VI-b, each state agency having permitting or other regulatory authority over the proposed energy facility shall report its progress to the committee within 150 days after application acceptance, outlining draft permit conditions and specifying additional data requirements necessary to make a final decision on the parts of the application that relate to its permitting or other regulatory authority;

(b) Pursuant to RSA 162-H:7, VI-c, each state agency having permitting or other regulatory authority over the proposed energy facility shall make and submit to the committee a final decision on the parts of the application that relate to its permitting and other regulatory authority, no later than 240 days after application acceptance.

(c) Pursuant to RSA 162-H:7, VI-d, the committee shall issue or deny a certificate for an energy facility within 365 days after application acceptance.

(d) Pursuant to RSA 162-H:14, I, the committee shall temporarily suspend its deliberations and the time frames set forth in this section at any time while an application is pending before the committee, if it finds that such suspension is in the public interest.

Site 301.13 Criteria Relative to Findings of Financial, Technical, and Managerial Capability.

(a) In determining whether an applicant has the financial capability to construct and operate the proposed facility, the committee shall consider:

(1) The applicant's experience in securing funding to construct and operate energy facilities similar to the proposed facility;

(2) The experience and expertise of the applicant and its advisors, to the extent the applicant is relying on advisors;

(3) The applicant's statements of current and pro forma assets and liabilities; and

(4) Financial commitments the applicant has obtained or made in support of the construction and operation of the proposed facility.

(5) The effect of the potential loss of renewable energy subsidies or carbon credits upon the corporation.

(Site 301.13 continued)

(b) In determining whether an applicant has the technical capability to construct and operate the proposed facility, the committee shall consider:

(1) The applicant's experience in designing, constructing, and operating energy facilities similar to the proposed facility; and

(2) The experience and expertise of any contractors or consultants engaged or to be engaged by the applicant to provide technical support for the construction and operation of the proposed facility.

(c) In determining whether an applicant has the managerial capability to construct and operate the proposed facility, the committee shall consider:

(1) The applicant's experience in managing the construction and operation of energy facilities similar to the proposed facility; and

(2) The experience and expertise of any contractors or consultants engaged or to be engaged by the applicant to provide managerial support for the construction and operation of the proposed facility, if known at the time.

(3) The time the project has taken to file with the SEC, and if applicable, receive a Presidential Permit, from first public announcement.

(4) The amount of public resistance to the project.

Site 301.14 Criteria Relative to Findings of Unreasonable Adverse Effects.

(a) In determining whether a proposed energy facility will have an unreasonable adverse effect on **aesthetics**, the committee shall consider:

(1) The existing character of the area of potential visual, aural and olfactory impact in the proposed facility host municipalities or unincorporated places and in municipalities or unincorporated places abutting or in the vicinity of the proposed facility;

(2) The significance of affected scenic resources and their distance from the proposed facility;

(3) The extent, nature, and duration of uses of the land in the host and affected communities;

(4) The scope and scale of the change in the landscape audible, smellable or visible from the host and affected communities including the nighttime impact of facility lighting, including both direct visibility of facility lights and indirect visibility of atmospherically-reflected lighting.

(Site 301.14 continued)

(5) The evaluation of the overall visual, smellable, vibratory or audible impacts of the facility as described in the visual, sound, and any other impact assessments submitted by the applicant and others, and other relevant evidence submitted pursuant to Site 202.24;

(6) Whether the proposed facility would be a dominant and prominent feature within a natural or cultural landscape of high scenic quality as viewed from the host and affected communities.

(7) Whether the visibility, sound and smell of the proposed facility will offend the residents of the host and affected communities during daytime or nighttime periods. This to be ascertained by documents submitted by the host towns and affected communities; and

(8) The effectiveness of the best practical measures planned by the applicant to avoid or minimize, adverse effects on aesthetics.

(9) The effect of the facility in isolation but also its potential cumulative effect when combined with other existing or proposed transmission facilities within 10 miles, natural facilities within 5 miles and proposed industrial wind turbines within 50 miles of the proposed facility. Assessment of cumulative effect may be based upon the combined, successive, or sequential observation of energy facilities by the viewer.

(10) The Visual Impact Analysis, information submitted by intervenors and independent consultants, and public comment.

(a) For the Site Evaluation Committee to determine that the site and facility will have an adverse effect on aesthetics when viewed from one or more Scenic Viewpoints, the committee shall give strong consideration to findings that:

(1) The facility is not a dominant feature on the landscape as seen from Scenic Viewpoints due to factors such as distance or intervening topography or vegetation.

(2) Only limited parts of the facility are visible from Scenic Viewpoints such that the facility is not a dominant feature on the landscape.

(3) The facility is seen only from Scenic Viewpoints of relatively low significance or low levels of public use.

(4) The facility is seen in the context of a landscape in which existing human development is already a prominent feature of the viewscape.

(b) In determining whether a proposed energy facility will have an unreasonable adverse effect on **historic sites and landscapes**, the committee shall consider:

(Site 301.14 continued)

(1) Whether the application has identified all historic sites and archaeological resources potentially affected by the proposed facility and any anticipated potential adverse effects on such sites and resources, in consultation with the New Hampshire Division of Historical Resources of the Department of Cultural Resources, consulting parties, the public, and, if applicable, the federal lead agency;

(2) The effectiveness of the measures proposed by the applicant to avoid or minimize adverse effects on historic sites and archaeological resources;

(3) The status of the applicant's consultations with the New Hampshire division of historical resources of the department of cultural resources and, if applicable, the federal lead agency, and consulting parties, as such term is defined in 36 C.F.R. §800.2(c); and

(4) Whether the proposed facility will adversely affect historical sites and archaeological resources.

(c) In determining whether a proposed energy facility will have an adverse effect on **air quality**, the committee shall consider the determinations of the New Hampshire Department of Environmental Services with respect to applications or permits identified in Site 301.03(d), local ordinances and zoning, and other relevant evidence submitted pursuant to Site 202.24.

(d) In determining that the site and facility will have an unreasonable adverse effect on wetlands and water resources, the committee shall give strong consideration to findings that the facility involves impacts to wetlands, streams or other water resources that cannot be avoided or minimized through the conditions of permits issued by the New Hampshire Department of Environmental Services, U.S. Army Corps of Engineers and other state or federal agencies with jurisdiction over the facility because:

(1) Project activity would create a significant risk of degradation of water quality (including but not limited to turbidity, temperature, chemical parameters and biotic and aquatic community integrity) outside of the project area.

(2) Project activity would significantly alter natural hydrologic regimes (i.e., quantity and timing of surface and subsurface flows) outside of the project area.

(e) For the committee to find that the construction and operation of a proposed energy facility will not have an unreasonable adverse effect on the natural environment, including wildlife species, rare plants, rare natural communities, and other exemplary natural communities, the record must demonstrate that the proposed facility:

(1) Would not eliminate, fragment or degrade critical wildlife habitat or a significant habitat resource used by resident and migratory fish and wildlife species, rare plants and rare natural communities, or affect the size, prevalence, dispersal, migration and viability of the populations in or using the area;

(Site 301.14 continued)

(2) If a wind energy facility, is not located within 0.5 miles of a peregrine falcon or golden eagle aerie or active bald eagle nest, within 1.5 miles of a known bat maternity-nursery colony or hibernaculum, or within 0.25 miles of a known common nighthawk nest site;

(3) Provides for post-construction monitoring, reporting and adaptive management as necessary to address potential adverse effects that cannot reliably be predicted at the time of the application.

(4) Does not lie in whole or in part above 2500 feet in elevation.

(5) Takes into account the analyses and recommendations of the Department of Fish and Game, the Natural Heritage Bureau, the United States Fish and Wildlife Service, written comments from host and affected communities, and other agencies authorized to identify and manage significant wildlife species, rare plants, rare natural communities, and other exemplary natural communities;

(6) Addresses conditions to be included in the certificate for post-construction monitoring and reporting and for adaptive management to address potential adverse effects that cannot reliably be predicted at the time of application.

(f) In determining whether a proposed energy facility will have an unreasonable adverse effect on public health and safety, the committee shall:

(1) For all energy facilities, consider the information submitted pursuant to Site 301.08 and other relevant evidence submitted pursuant to Site 202.24;

(2) For wind energy systems, apply the following standards:

(a) With respect to sound standards, the A-weighted equivalent sound levels produced by the applicant's energy facility during operations shall not exceed background levels (measured at the L-90 sound level) between the hours of 8:00 a.m. and 8:00 p.m. each day, and background levels (measured at the L-90 sound level) at all other times during each day, as measured using microphone placement at the project site boundary pre-construction

(b) With respect to shadow flicker, the shadow flicker created by the applicant's energy facility during operations shall be curtailed completely using current technology, at all sites, regardless of remoteness.

© With respect to setbacks, the setback distance between a wind turbine tower and an existing property boundary or public road shall be 5,000 feet

(3) For Transmission systems, setbacks shall be set according to FERC or HUD standards

or buildings or other structures must be 300' from transmission structures, whichever standard is most stringent.

Site 301.15 Criteria Relative to a Finding of Undue Interference. In determining whether a proposed energy facility will unduly interfere with the orderly development of the host town and affected communities, the committee shall consider:

- (a) The extent to which the siting, construction, and operation of the proposed facility will affect land use, employment, the economy, environment and aesthetics of the towns in which the facility is proposed to be located;
- (b) The provisions of, and financial assurances for, the proposed decommissioning plan for the proposed facility; and
- (c) The views of host and affected municipalities and regional planning commissions and municipal governing bodies regarding the proposed facility.

Site 301.16 Criteria Relative to Finding of Public Interest. In determining whether a proposed energy will serve the public interest the committee shall consider:

- (a) Whether the siting, construction, and operation of the proposed facility will adversely affect land use, employment, and the economy of the host and affected communities.
- (b) The provisions of, and financial assurances for, the decommissioning plan for the proposed facility; and
- (c) Whether the proposed project violates the laws and goals of municipal zoning, master plans and other applicable documents of the host community and affected communities.
- (d) The potential adverse effects of the project on host municipalities and affected municipalities, with consideration for aesthetics, self-sufficiency, orderly development, public health and safety, air quality, economic development, and historic resources. "Public Interest" means the welfare or well-being of the general public, commonwealth, within the State of New Hampshire. The welfare of the public shall prevail when compared to the welfare of a private company as provided for in RSA 162-H:16.IV(e).
- (e) Whether the project would create a negative net environmental effect, compared to conservation measures.
- (f) The maximum surges in output from the facility, their frequency, time of day, the ability of the ISO to effectively utilize these surges, including the deterioration of turbine efficiency, their effect on other sources of power, and the potential effects of future IWFs on the grid, assuming that all such present and future IWFs will surge on the same days and at the same times.

Site 301.17 Conditions of Certificate. In determining whether a certificate shall be issued for a proposed energy facility, the committee shall consider whether the following conditions should be included in the certificate:

(a) A requirement that the certificate holder promptly notify the committee and host and affected of any proposed or actual change in the ownership or ownership structure of the holder or its affiliated entities and request approval of the committee of such change;

(b) A requirement that the certificate holder promptly notify the committee and host and affected municipalities of any proposed or actual material change in the location, configuration, design, specifications, construction, operation, or equipment components of the energy facility subject to the certificate and request approval of the committee of such change;

(c) A requirement that the certificate holder continue consultations with the New Hampshire division of historical resources of the department of cultural resources and, if applicable, the federal lead agency, and comply with any agreement or memorandum of understanding entered into with the New Hampshire division of historical resources of the department of cultural resources and, if applicable, the federal lead agency;

(d) Delegation to the administrator or another state agency or official of the authority to monitor the construction or operation of the energy facility subject to the certificate and to ensure that related terms and conditions of the certificate are met, as well as impose mandatory fines for violations of conditions of certificate, at a rate no less than \$1,000. a day, to be paid to the host and affected municipalities.

(e) Delegation to the administrator or another state agency or official of the authority to specify the use of any technique, methodology, practice, or procedure approved by the committee within the certificate and with respect to any permit, license, or approval issued by a state agency having permitting or other regulatory authority;

(f) Other conditions necessary to ensure construction and operation of the energy facility subject to the certificate in conformance with the specifications of the application; and (h) Any other conditions necessary to serve the objectives of RSA 162-H or to support findings made pursuant to RSA 162-H:16.

(g) The site evaluation committee shall require, where necessary, as conditions of the certificate appropriate post-construction studies to 1) ensure compliance with required standards or 2) to evaluate and stop adverse impacts of a facility that cannot be reliably predicted prior to permitting (“adaptive management”). Such studies, if any, shall be conducted for a minimum of two years within the first five years of facility operation. The cost of such studies shall be borne by the applicant.

(h) The site evaluation committee shall require, where necessary, as a condition of the certificate an appropriate protocol for ongoing monitoring, documentation and reporting of wildlife mortality or injury by facility staff. Any observed mortality or injury event involving an

(Site 301.17 continued)

individual of a significant wildlife species shall be reported to NH Fish and Game Department (NHFG) and the US Fish and Wildlife Service within 24 hours of discovery. Other wildlife mortalities shall be reported monthly to NHFG by date, species, location, and circumstances. NHFG may recommend further study and/or adaptive management provisions based on observed mortality.

(j) The site evaluation committee shall require, where necessary, as a condition of certificate a decommissioning plan prepared by an independent, qualified engineer familiar with wind or transmission energy system decommissioning. The plan will provide for removal of all structures and restoration of the facility site with a description of sufficient and secure funding to implement the plan, which shall not account for the anticipated salvage value of facility components or materials, including the provision of financial assurance in the form of an irrevocable standby letter of credit, performance bond, or surety bond. Decommissioning would consist of the following:

(1) All turbines, including the blades, nacelles and towers, would be disassembled and transported off-site for reclamation and sale;

(2) All of the transformers would also be transported off-site for reuse or reclamation;

(3) The overhead power collection conductors and the power poles would be removed from the site;

(4) All underground infrastructure at depths less than four feet below grade would be removed from the site; and

(5) All underground infrastructure at depths greater than four feet below finished grade would be abandoned in place. Areas where subsurface components are removed would be filled, graded to match adjacent contours, and reseeded, stabilized with an appropriate seed and allowed to re-vegetate naturally.

(6) The decommissioning fund will be reviewed every five years to validate adequate funding. The fund will increase over time to account for inflation.

(7) The fund should be bankruptcy-remote to protect it against creditor claims in the event the Project encounters financial difficulty

(8) If the Project fails to produce at least 65% of the output projected by the Applicant during any consecutive 12-month period, then a decommissioning review will be instituted.

(9) Each application for an energy facility shall contain, and the SEC shall require, best practical mitigation for all aspects of construction and operation of generating and transmission facilities. In determining best practical mitigation options, the site evaluation committee shall consider the following:

(2) The effectiveness of available technologies or methods for reducing impacts.

Site 301.18 Sound Study Methodology.

(a) The methodology for conducting a preconstruction sound background study for a wind energy system shall include:

(1) Adherence to the ANSI/ASA S12.9-2013 Part 3 standard, a standard that requires short-term attended measurements;

(2) Long-term unattended monitoring shall be conducted in accordance with the ANSI S12.9 1992/ Part 2 standard, provided that audio recordings are taken in order to clearly identify and remove transient noises from the data, with frequencies above 1250 hertz 1/3 octave band to be filtered out of the data;

(3) Measurements shall be conducted at the nearest properties from the proposed wind turbines that are representative of all residential properties within 2 miles of any turbine; and

(4) Sound measurements shall be omitted when the wind velocity is greater than 4 meters per second at the microphone position, when there is rain, or with temperatures below instrumentation minima; following ANSI S12.9-2013 Part 3 protocol, microphones shall be placed 1 to 2 meters above ground level, and at least 15 feet from any reflective surface; a windscreen of the type recommended by the monitoring instrument's manufacturer must be used for all data collection; microphones should be field-calibrated before and after measurements; and an anemometer shall be located within close proximity to each microphone.

(b) Pre-construction sound reports shall include a map or diagram clearly showing the following:

(1) Layout of the project area, including topography, project boundary lines, and property lines;

(2) Locations of the sound measurement points;

(3) Distance between any sound measurement point and the nearest wind turbine;

(4) Location of significant local non-turbine sound and vibration sources;

(5) Distance between all sound measurement points and significant local sound sources;

(6) Location of all sensitive receptors including schools, day-care centers, health care facilities, residences, residential neighborhoods, places of worship, and elderly care facilities;

(7) Indication of temperature, weather conditions, sources of ambient sound, and prevailing wind direction and speed for the monitoring period; and

(Site 301.18 continued)

(8) Final report shall provide A-weighted and C-weighted sound levels for L-10, Leq, and L-90.

(c) ISO 9613-2 cannot be used. The applicant will determine from actual measurements at the proposed, or a similar, site the meteorological conditions which are likely to produce the 'worst meteorological case(s)' for sound generation and broadcast, and the direction(s) which will be most affected. The applicant will then determine, based on sound meteorological principles and analyses, the sound levels to be expected at the site, for the 'worst meteorological case(s)', and their frequency of occurrence.

(d) The predictive sound modeling study report shall:

(1) Include the results of the modeling described in (c)(3) above as well as a map with sound contour lines showing dBA sound emitted from the proposed wind energy system at 5 dBA intervals;

(2) Include locations out to 5 miles from any wind turbine included in the proposed facility; and

(3) Show proposed wind turbine locations and the location of all sensitive receptors, including schools, day-care centers, health care facilities, residences, residential neighborhoods, places of worship, and elderly care facilities;

(e) Post-construction noise compliance monitoring shall include:

(1) Adherence to the ANSI/ASA S12.9-2013 Part 3 standard that requires short-term attended measurements to ensure transient noises are removed from the data; measurements shall include at least one nighttime hour where turbines are operating at full sound power with winds less than 3 meters per second at the microphone;

(2) Unattended long-term monitoring shall also be conducted;

(3) Sound measurements shall be omitted when there is rain, or when temperatures are below instrumentation minima; microphones shall be placed 1 to 2 meters above ground level and at least 15 feet from any reflective surface, following ANSI/ASA S12.9-2013 Part 3 protocols; proper microphone screens shall be required; microphones shall be field-calibrated before and after measurements; and an anemometer shall be located within close proximity to each microphone;

(4) Monitoring shall involve measurements being made with the turbines in both operating and non-operating modes, and supervisory control and data acquisition system data shall be used to record hub height wind speed and turbine power output;

(Site 301.18 continued)

(5) Locations shall be pre-selected where noise measurements will be taken; measurements shall be performed at night with winds above 4.5 meters per second at hub height and less than 3 meters per second at ground level;

(6) All sound measurements during post-construction monitoring shall be taken at 0.125-second intervals measuring both fast response and Leq metrics; and

(7) Post-construction monitoring surveys shall be conducted once within 3 months of commissioning, and once during each season thereafter for the first year; additional surveys shall be conducted at the request of the committee or the administrator; adjustments to this schedule shall be permitted subject to review by the committee or the administrator.

(f) Post-construction sound monitoring reports shall include a map or diagram clearly showing the following:

(1) Layout of the project area, including topography, project boundary lines, and property lines;

(2) Locations of the sound measurement points;

(3) Distance between any sound measurement point and the nearest wind turbine;

(4) For each sound measurement period during post-construction monitoring, reports shall include each of the following measurements: a. LAeq, LA-10, and LA-90; and b. LCeq, LC-10, and LC-90;

(5) Noise emissions shall be free of audible tones, and if the presence of a pure tone frequency is detected, a 5 dB penalty shall be added to the measured dBA sound level; and

(6) Validation of noise complaints submitted to the committee shall require field sound surveys conducted under the same meteorological conditions as occurred at the time of the alleged exceedance that is the subject of the complaint.

SITE 302 ENFORCEMENT OF TERMS AND CONDITIONS

Site 302.01 Determination of Certificate Violation.

(a) Whenever the committee or the administrator as designee determines, on its own or in response to a complaint, that any term or condition of an issued certificate is being violated, it shall give written notice to the person holding the certificate of the specific violation and order the person to immediately terminate the violation.

(b) The person holding the certificate shall provide full access to the site of the energy facility subject to the certificate for purposes of inspection and monitoring by the administrator or another authorized representative of the committee and a member of the host community.

(c) If the person holding the certificate has failed or neglected to terminate a specified violation within 15 days after receipt of the notice and order issued pursuant to (a) above, the committee shall commence a proceeding to suspend the person's certificate, while imposing a daily fine of \$5,000.

(d) Except in the case of an emergency, the committee shall give written notice of its consideration of suspension and of its reasons for consideration of suspension and shall provide an opportunity for an adjudicative hearing pursuant to Site 201 with respect to the proposed suspension.

(e) Except in the case of an emergency, the committee shall provide 14 days prior written notice of the hearing referred to in (d) above to the holder of the certificate and to the complainant, if any.

(f) Pursuant to RSA 162-H:12, I, if the committee determines following the adjudicative hearing that a certificate violation has occurred and is continuing, the committee may issue an order that suspends the holder's certificate until such time as the violation has been corrected.

Site 302.02 Determination of Misrepresentation or Non-Compliance.

(a) If the committee determines that a person has made a material misrepresentation in the application or in any supplemental or additional statements of fact or studies required of the applicant, or if the committee determines that the person has violated the provisions of RSA 162-H or the rules of the committee, the committee shall commence an adjudicative proceeding to suspend the certificate held by such person.

(b) Except in the case of an emergency, the committee shall give written notice of its consideration of suspension and of its reasons therefor and shall provide an opportunity for an adjudicative hearing pursuant to Site 201 with respect to the proposed suspension.

(c) Except in the case of an emergency, the committee shall provide 14 days prior written notice of the hearing referred to in (b) above to the holder of the certificate.

(d) Pursuant to RSA 162-H:12, II, if the committee determines following the adjudicative hearing that a material misrepresentation or violation of RSA 162-H or its rules has occurred, the committee may issue an order that suspends the holder's certificate until such time as the holder has corrected and mitigated the consequences of such misrepresentation or violation.

(e) If the holder's certificate is suspended by order of the committee, then the holder shall cease construction or operation of the energy facility subject to the certificate as of the time specified in the order, and shall not resume construction or operation of the facility until such time as the suspension is lifted by further order of the committee.

Site 302.03 Revocation of Certificate.

- (a) The committee shall have the authority to revoke a certificate according to this section.
- (b) If the committee has suspended a certificate pursuant to Site 302.01 or Site 302.02 and the holder has failed to correct and mitigate the consequences of the violation or misrepresentation that was the basis for the suspension within the period of time specified in the suspension order, the committee shall initiate an adjudicative proceeding to revoke the suspended certificate.
- (c) The committee shall provide 90 days prior written notice to the holder of the certificate that the committee intends to revoke the certificate and stating the reasons for the intended revocation.
- (d) If the holder's certificate is revoked by order of the committee, then the holder shall permanently cease construction or operation of the energy facility subject to the certificate as of the time specified in the order and shall commence and complete decommissioning of the facility within the time period specified in the order.

Site 302.04 Emergencies.

- (a) For the purposes of this part, "emergency" means an event which jeopardizes public health or safety.
- (b) With respect to emergencies, the committee shall provide 5 days prior written notice of an adjudicative hearing to the holder of a certificate.

Site 302.05 Waiver of Rules.

- (a) The committee or subcommittee, as applicable, shall waive any of the provisions of this chapter, with the approval of the host municipality, except where precluded by statute, on its own motion or upon request by an interested party, if the committee or subcommittee finds that:
 - (1) The waiver serves the public interest; and
 - (2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.
- (b) In determining the public interest, the committee or subcommittee shall waive a rule if:
 - (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person. For the purposes of this part, "person" does not encompass corporations; or
 - (2) The purpose of the rule would be satisfied by an alternative method proposed

(c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.

(d) The committee or subcommittee, as applicable, shall accept for consideration any waiver request made orally during a hearing or prehearing conference.

(e) A request for a waiver shall specify the basis for the waiver and the proposed alternative, if any.