

Summary of Wind Energy Facility Siting Requirements of 2023 PA 233

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Disclaimer: For discussion purposes. Not to be used as a substitute for your own reading of the statute.

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Developers of large wind, solar, and energy storage facilities (developers) must apply for a certificate from the Michigan Public Service Commission (MPSC).

Prior to applying to the MPSC the developers must:

- Hold a public meeting after
 - Publishing a notice and a site plan.
 - Notifying clerks of affected local units (locals) of meeting
 - Offering to meet with locals' chief elected officials to discuss the site plan
- If notified that a local has a Compatible Renewable Energy Ordinance (CREO) the developer must apply for a permit from the local unit. The local unit initially has 120 days to approve or deny the permit.
- If the local unit 1) does not act in a timely manner, 2) denies an application that is in compliance with the state standards for setbacks, shadow flicker, height, sound, light mitigation, and any other requirements imposed by the MPSC, or 3) changes the local ordinance after the chief elected official is notified the developer does not have to hold a local public meeting, provide funds to the local unit to contest the application before the MPSC, or engage in community outreach efforts.
- It is not clear what additional provisions, if any, may be imposed through a CREO.
- Construction must commence within 5 years of local approval and any challenges are concluded.

Applications to the MPSC must include the following:

- Site plan and description of the development
- Description of the public benefits
- Description of the environmental, signal, and stormwater impacts and any mitigation measures
- Description of the public health effects
- Summary of community outreach efforts
- Evidence of consultation with appropriate state and federal agencies
- Soil and economic survey report required by the Michigan Natural Resources and Environmental Protection Act (NREPA).
- Queue status of interconnection to the electrical grid
- For undeveloped site locations, a description of feasible alternative developed sites
- Fire and emergency response plans
- Decommissioning plan

The application review process is based on the Contested Case Proceedings (CCP) established in the Michigan Administrative Procedures Act. Developers must:

- Publish notice of the opportunity to comment on their application
- Grant funds to locals to take part in the proceedings

The MSPC may establish conditions for approval related to vegetative ground cover, pollinators, community improvements, and the proper care of property during construction and operations of the development.

The MSPC must grant approval if

- The development is justified based on the public benefits including tax revenue generated, payments to property owners, community benefits, local job creation, and public energy needs met
- The application demonstrates compliance with the NREPA
- The application addresses impact to the environment, wildlife, parks, historic and cultural sites, and threatened and endangered species.
- Community hosting requirements of the bill are met
- Labor requirements of the bill are met
- No unreasonable threats to public health and safety are posed as demonstrated by compliance with the following requirements:
 - Setbacks: Distance from the base to the nearest outside wall of the maximum blade tip height as determined below.
 - 2.1 times from occupied community buildings and non-participating residences
 - 1.1 times from structures and residences on participating parcels
 - 1.1 times from non-participating parcel lines
 - 1.1 times from public road rights-of-way
 - 1.1 times from overhead communication and electric transmission lines
 - Shadow flicker: Maximum of 30 hours per year on non-participating residences and occupied community buildings.
 - Height: May not impose a hazard Air Navigation as determined by the FAA.
 - Sound: An hourly average of 55 dB(A) measured at the dwelling of non-participating residences.
 - Light-mitigating technology as established in the bill.
 - Other requirements imposed by the MSPC

Additional provisions in the bill:

- Host community agreements providing \$2,000/MW for police, fire, public safety, infrastructure, or projects agreed upon between the local and the developer.
- Local ordinances may not regulate testing activities.
- Regulations established after an application is submitted to the MSPC do not apply to that development.