PA 233 Simple Amendments

Version: May 3, 2024

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These amendments aim to clear up some of the questions being asked by planners and communities about implementation of the law, consistent with what we believe to be the original legislative intent. We did not make any changes where we were unable to ascertain legislative intent or that would alter the law to be more in keeping with our organization's priorities, but would be happy to develop further amendments in this direction if requested.

	§	STATUTORY TEXT	Question it addresses	Explanation
460.1221	**221**	**Definitions**		
	(a)	"Affected local unit": a *unit of local government* in which all or part of a proposed energy facility will be located		
	(b)	"Aircraft Detection Lighting System"		
	(c)	"Applicant": an applicant for a certificate		
	(d)	"Certificate": a certificate issued for an energy facility issued under § 226(5)		
	(e)	"Community-based organization": workforce development/training organization, labor union, local governmental entity, federally recognized tribe, environmental advocacy organization, or an organization representing interest of underserved communities		

	(f)	"Compatible renewable energy ordinance" means ~~an ordinance that provides for the development of energy facilities within the local unit of government, and~~ zoning ordinance regulations providing for energy facilities within the local unit of government and ~~the~~ having requirements ~~of which~~ that are no more restrictive than the provisions included tin section 226(8). A local unit of government is considered not to have a CREO if it has a moratorium in effect	Is the CREO a regulatory or zoning ordinance? How does this apply to un-zoned places?	Consistent with case law that land use regulations should be through zoning.
	(g)	"Construction": substantial action taken to place, erect, expand or repower an energy facility		
	(h)	"Dark sky-friendly lighting technology": light fixture designed to minimize light escaping upward into the sky		
	(i)	"Energy facility": energy storage facility, solar energy facility, or wind energy facility, located on more than 1 parcel, including noncontiguous parcels but sharing a single point of interconnection to the grid		
	(j)	"Energy storage facility": absorbs, stores, and discharges electricity but not including (i) fossil fuel storage or (ii) power-to-gas storage that uses direct fossil fuel inputs		
	(k)	"Independent power producer": owner or operator of energy facility that sales power to state, local unit or utility		
	(l)	"Light intensity dimming solution technology": obstruction lighting with variable intensity levels sensitive to surrounding visibility		

	(m)	"Light-mitigating technology system": ADLS system, light intensity dimming solution technology, or something comparable that reduces the impact of nighttime lighting while maintaining night conspicuity for aircraft		
	(n)	"Local unit of government" or "local unit": a county, township, city or village		
	(o)	"Maximum blade tip height": can be either nominal (per specifications) or actual if not provided by specifications		
	(p)	"Nameplate capacity" means the designed full-load sustained generating output of an energy facility measured in alternating current (AC). Nameplate capacity shall be determined by reference to the sustained output of any energy facility even if components of the energy facility are located on different parcels, whether contiguous or noncontiguous.	Is the nameplate capacity of solar in DC or AC?	Consistent with how nameplate capacity is defined in the solar PILT and Renewables Ready Community Awards.
	(q)	"Nonparticipating parcel": adjacent to an energy facility and no a participating parcel		
	(r)	"Occupied community building": school, place of worship, day care facility, public library, community center, or other similar building the applicant knows or reasonably should know is used on a regular basis as a gathering place for community members		
	(s)	"Participating property": owned by applicant or subject to an agreement that requires applicant to pay compensation to landowner related to an energy facility, regardless of whether any part of the facility is constructed on the property		

	(t)	"Person": individual, governmental entity authorized by state, political subdivision of the state, business, proprietorship, firm, partnership, limited partnership, limited liability partnership, co-partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, subchapter S corporation, limited liability company, committee, receiver, estate, trust, or any other legal entity or combination or group of persons acting jointly		
	(u)	"Project labor agreement": pre-hire collective bargaining agreement with 1 or more labor organizations establishing the terms and conditions of employment for a specific construction project and including all of the following: (i) binds all on a project; (ii) allow all to compete for contracts irrespective of collective bargaining agreement; (iii) contains guaranties against strikes, lockouts; (iv) mutual binding dispute resolution procedures; (v) mechanisms for management-labor cooperation on matters of productivity, quality, health, safety; (vi) complies with all state and federal laws		
	(v)	"Repowering": replacement of all or substantially all of an energy facility for purposes of extending its life; does not include repairs relating to ongoing operations that do no increase capacity or output		

	(w)	"Solar energy facility" means a system that captures and converts solar energy into electricity, for the purpose of sale or use in locations other than solely the solar energy facility property. Solar energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: photovoltaic solar panels; solar inverters; access roads; distribution, collection and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnections or switching facilities; circuit breakers and transformers; ~~energy storage facilities~~ ~~battery~~energy storage; overhead and underground control; communications and radio relay systems and telecommunications equipment; utility lines and installations; generation tie lines; solar monitoring stations; and accessory equipment and structures.	Does this allow the stacking of technology to bring smaller projects within scope of the act?	Removing energy storage facilities resolves the concern and keeps the intended large-scale facilities within scope of the act.
	(x)	Wind energy facility means a system that captures and converts wind into electricity, for purposes of sale or use in locations other than solely the wind energy facility property. Wind energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: wind towers; wind turbines; access roads; distribution, collection, and feeder lines; wires and cables; conduit; footings; foundations; towers; poles, crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit	Does this allow the stacking of technology to bring smaller projects within scope of the act?	Removing energy storage facilities resolves the concern and keeps the intended large-scale facilities within scope of the act.

		breakers and transformers; ~~energy storage facilities~~ ~~battery~~energy storage; overhead and underground control; communications and radio relay systems and telecommunications equipment; monitoring and recording equipment and facilities; erosion control facilities; utility lines and installations; generation tie lines; ancillary buildings; wind monitoring stations; and accessory equipment and structures.		
460.1222	**222**	**Scope**		
	(1)	Applies to all of the following:	Are hybrid battery + wind /solar projects subject to storage rules, too, or only solar/wind rules? Also, for hybrid projects, how will their nameplate capacity be determined?	
	(a)	Any solar energy facility with a nameplate capacity of 50 MW or more, excluding any additional capacity provided by ~~battery~~energy storage.		This provides for clarification on the status of hybrid projects and ensures battery storage projects are always subject to appropriate safety regulations.
	(b)	Any wind energy facility with a nameplate capacity of 100 MW or more, excluding any additional capacity provided by ~~battery~~energy storage.		This provides for clarification on the status of hybrid projects and ensures battery storage projects are always subject to appropriate safety regulations.
	(c)	Any energy storage facility with a nameplate capacity of 50 MW or more and an energy		This provides for clarification on the status of hybrid projects and ensures battery storage projects are always

		discharge capability of 200 MW hours or more.		subject to appropriate safety regulations.
	(d)	If ~~battery~~energy storage is included as a component of wind energy facility or solar energy facility, the ~~battery~~energy storage component must comply with section 226(8)(c).		
	(2)	Before beginning construction, an electric provider or IPP *may*, pursuant to this part [8], obtain a certificate for that energy facility from the commission. A local unit exercising zoning jurisdiction *may* request the commission to require an electric provider or IPP proposing to construct an energy facility to obtain a certificate from the commission for the facility. To obtain a certificate, an electric provider or IPP must comply with the requirements of §223 and §224 and apply to the commission as described in §225		
	(3)	If commission issues a certificate for an energy facility, the electric provider or IPP may make minor changes, as defined by the commission, to the site plan if the changes are within the footprint of the previously approved site plan.		
	(4)	If an energy facility "that would be subject to subsection (2)" is located entirely within a city or village, the city or village is exempt from this part [8] *if* the city or village is the owner of participating property, is a developer of the facility, or owns an electric utility that will take "service" from the facility		

460.1223	223	Procedures		
	(1)	An electric provider or independent power producer that, at its option or as required by the commission, proposes to obtain a certificate shall hold a public meeting ~~in~~ for each affected local unit other than a county. At least 30 days before the meeting, the electric provider/IPP must notify the clerk of each affected local unit in which a public meeting will be held of the time, date, location and purpose of the meeting and provide (i) a copy of the site plan required by §224 or (ii) the address of an internet site where the site plan is available for review. At least 14 days before the meeting, the electric provider/IPP must publish notice of the meeting in a newspaper of general circulation in the affected local unit or comparable digital alternative. The notice must include a copy of the site plan or the address of the internet site where the site plan is available for review. The commission is to further prescribe the format and content of the notice. For purposes of this subsection, a public meeting held in a township is consider to be held in each village located in the township.	If affected local unit includes a county without zoning jurisdiction, is a public meeting targeting that jurisdiction necessary when the community engagement can occur at a more local level with jurisdiction? Same for a county with zoning jurisdiction, should the public meeting be at a more local level?	This addresses the questions and focuses the meeting at the most local level and addresses situations where a village or city may lie cross two townships/two counties.
	(2)	At least 60 days before the public meeting held under subsection (1), the electric provider or IPP planning to construct an energy facility shall offer in writing to meet with the ~~chief elected official~~ legislative body of each affected local unit, or ~~his/her~~ its ~~the chief elected official's~~ designee(s), to discuss the site plan.	Who is the chief elected official in a township for purposes of notification?	This addressed the question and gives flexibility to the local government to identify the most appropriate point of contact.

	(3)	If, within 30 days following a meeting described in subsection (2), the ~~chief elected official~~ legislative body of each affected local unit exercising zoning authority, or its designee, notifies the electric provider or IPP planning to construct the energy facility that the ~~affected~~ local unit has a compatible renewable energy ordinance regulating the proposed type of renewable energy facility, then the electric provider or IPP shall file for approval with each such ~~affected~~ local unit, subject to the following:	Since counties and townships/cities are local units, does the use of "EACH" mean that, even if the project is in only 1 township, both the township AND county must have CREOs? If so, do they need to be identical? Does all of the ordinance need to be CREO to be considered CREO?	This modification provides clarification given modification to the addition of "zoning" to the definition of CREO. Highlighted text clarifies that a CREO need not include all 3 types of renewable energy facilities, but only those in the applicant's proposal.
	(a)	An application submitted under this subsection shall comply with the requirements of section 225(1), except for section (1)(j) and (s). An affected local unit with zoning jurisdiction may require other information necessary to determine compliance with the applicable compatible renewable energy ordinance, and may assess reasonable application fees to the applicant for purposes of administering the processes outlined in Section 226(4).	Section 226 (4). May the local government also assess reasonable application fees and hire consultants to review a proposal submitted under a CREO?	This provides clarification on reasonable application processing costs.

	(b)	Within 60 days after receipt of an application, the affected local unit shall determine whether it is complete. If incomplete, the affected local unit shall advise the applicant in writing of the information necessary to make the application complete If the local unit fails to timely notify the applicant that the application is incomplete, the application is considered complete. A local unit of government with which an application is filed under this subsection shall approve or deny the application within 120 days after receiving ~~the~~ a complete application. The applicant and local unit may agree to extend this deadline by up to 120 days.	What happens if the local government can't act within 120 days (or 240 days) because the developer hasn't provided a complete application or been responsive? If the local government denies the application because it isn't complete and the developer takes the project to the MPSC, will the penalty (in Section 223 (3)d) apply?	This modification gives local government a deadline to deem the application complete consistent with the deadline for the MPSC.
	(c)	The electric provider/IPP "may" submit its application to the commission if any of the following apply:		
	(i)	An affected local unit fails to timely approve or deny application		
	(ii)	Application complies with §226(8) but the affected local unit denies the application		

	(iii)	An affected local unit amends its zoning ordinance after the ~~chief elected official~~ legislative body, or its designee, notifies the electric provider or IPP that it has a compatible renewable energy ordinance, and the amendment imposes additional requirements on the development of the type of energy ~~facilities~~ facility proposed that are more restrictive than those in section 226(8).	Does all of the ordinance need to be CREO to be considered CREO?	This clarifies the type of amendment that would nullify a CREO with respect to the proposed project.
	(d)	An electric provider/IPP that submits an application to the commission pursuant to this subsection [223(3)] is not required to comply with subsection [223](1), subsection 226(1), or the summary of community outreach and education efforts required by subsection 225(1)(j).		
	(4)	If a local unit approves an application under subsection [223](3), construction of the facility must begin within 5 years after the date the permit is granted and any challenge to the permit concluded. The local unit may extend the timeline at the request of the electric provider/IPP without requiring a new application. The local unit cannot revoke a permit issued under subsection [223](3) except for material noncompliance with the permit by the electric provider/IPP		
	(5)	If the commission determines that a local ordinance is not compliant with the requirements for a compatible renewable energy ordinance and approves ~~an applicant~~ the application for a certificate under subsection (3)(c), the local unit of government is considered to no longer have a compatible renewable	Once CREO is lost, is it lost forever, or can communities change their ordinance to come back into	This provides clarification on the results of a state determination that a local ordinance is not compliant with a CREO and creates an opportunity for a local government to amend its ordinance to become compliant.

		energy ordinance~~,~~ for the type of energy facility proposed unless the commission finds that the local unit of government's denial of the application was reasonably related to the applicant's failure to provide information required by subjection (3)(a) or the local unit subsequently amends its ordinance to be compliant with the requirements for a compatible renewable energy ordinance for the type of energy facility.	compliance? Related to above, is it lost for all forms?	
	(6)	Nothing in this section [223] shall be construed to limit remedies available to an applicant to appeal a denial by a local unit under any other state law		
460.1224	**224**	**Site Plan Requirements**		
	(1)	A site plan required by either §223 or §225 must meet the application filing requirements established by commission rule or order to maintain consistency between applications. A site plan must include the following		
	(a)	Location and description of energy facility		
	(b)	Description of anticipated effects of the energy facility on the environment, natural resources, and solid waste disposal capacity, which "may" include records of consultation with relevant state, tribal and federal agencies		
	(c)	Additional information required by commission rule or order that directly relates to the site plan		
	(2)	An electric provider/IPP submits a site plan under §223 or §225 to the commission, the electric provider/IPP must submit a copy to the clerk of each affected local unit for informational purposes.		

460.1225	225	Certificate Application		
	(1)	An application for a certificate submitted under §222(2) must contain all of the following:		
	(a)	Complete name, address, and telephone number of the applicant		
	(b)	Planned date for the start of construction and the expected duration of construction		
	(c)	Description of the facility, including a site plan as described in §224.		
	(d)	Description of the expected use of the facility		
	(e)	Expected public benefits of the proposed facility		
	(f)	Expected direct impacts of the proposed facility on the environment and natural resources and how the applicant intends to mitigate the impacts		
	(g)	Information on the effects of the proposed facility on public health and safety		
	(h)	Description of the portion of the community where the energy facility will be located including by reference to current land uses, zoning district designations, and future land uses contemplated by the local unit's Master Plan adopted pursuant to MPEA.	Section 225(1)(h). What information are you expecting? Its current use? How it is zoned? What the master plan calls for in terms of its future land use?	This clarification provides vital information that is not readily available to the commission to evaluate projects under Section 226(6)
	(i)	Statement and reasonable evidence that the facility will not commence commercial operations until it complies with all applicable state and federal environmental laws		

	(j)	Summary of community outreach and education efforts undertaken by electric provider/IPP, including a description of the public meeting and meeting with elected officials under §223[(1), (2), (3)]		
	(k)	Evidence of consultation, prior to submission of application, with EGLE and other relevant state and federal agencies, including but not limited to DNR and DARD		
	(l)	Soil and economic survey report under §60303 of NREPA, MCL 324.60303, for the county where the facility will be located		
	(m)	Interconnection queue information for the applicable regional transmission system		
	(n)	If the proposed site is "undeveloped land," a description of feasible alternative locations, including, but not limited to, vacant industrial property and brownfields, and an explanation of why they were not chosen		
	(o)	If the facility is reasonably expected to have an impact on television signals, microwave signals, agricultural global positioning systems, military defense radar, radio reception, or whether and doppler radio, a plan to minimize and mitigate that impact. Information in the plan concerning military defense radar is exempt from disclosure under FOIA and shall not be disclosed by the commission or the electric provider/IPP except pursuant to court order		

	(p)	Stormwater assessment and plan to minimize, mitigate, and repair any drainage impacts at the expense of the electric provider/IPP. Applicant shall make reasonable efforts to consult with the county drain commissioner before submitting the application and shall include evidence of those efforts in its application		
	(q)	Fire response plan and emergency response plan		
	(r)	A decommissioning plan that is consistent with agreements reached between the applicant and other landowners of participating properties and that ensures the return of all participating properties to a useful condition similar to that which existed before construction, including removal of above-ground facilities and infrastructure that no longer have ~~no~~ an ongoing purpose. The decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, or an irrevocable letter of credit, which shall be held by the commission, but excluding cash. The amount of the financial assurance shall not be less than the estimated cost of decommissioning the energy facility, after deducting salvage value, as calculated by a third party with expertise in decommissioning, hired by the applicant. However, the financial assurance may be posted increments as follows:	Section 225(1)(r): In State process, who holds the decommissioning bond?	Provides clarity as to who is holding the financial guarantee.
	(i)	At least 25% by the start of full commercial operation		
	(ii)	At least 50% by the start of the 5th year of commercial operation		
	(iii)	100% by the start of the 10th year of commercial operation		

	(s)	Other information required by the commission		
	(2)	Within 60 days after receipt of an application, the commission shall determine whether it is complete. If incomplete, the commission shall advise the applicant in writing of the information necessary to make the application complete If the commission fails to timely notify the application that the application is incomplete, the application is considered complete.		
460.1226	**226**	**Application Processing and Evaluation**		
	(1)	Upon filing an application with the commission, the applicant shall make a 1-time grant to each affected local unit for an amount determined by the commission but not more than $75,000 per affected local unit and not more than $150,000 in total. [XXX] Each affected local unit shall deposit the grant in a local intervenor compensation fund to be used to cover costs incurred by the affected local unit ~~associated with~~ participation in a contested case proceeding on the application for a certificate. [YYY]	What happens if there are more than 2 affected local units of government? How is the grant to be divided? "cover the costs [of whose] participation in the contested case?" Just the local governments? Do other intervenors [Section 225 (3) (i.e., participating and non-participating property owners) have any claim to that grant? If a project is in 2	This clarifies the administration of this provision. On the final disposition of any funds not expended during intervention, there are a couple of options. Two options on [XXX] • When there is more than one affected local unit, the Commission shall apportion grant funds based on the portion of the facility across the affected units. • When there is more than one affected local unit, the funds shall be divided equally between the affected local units. Two options on [YYY] • "Grant" suggests unexpended grant funds may be transferred to the local unit's general fund following issuance of a final non-appealable certificate. • If changed to deposit in escrow, escrow suggests unexpended funds will be refunded to the developer within 90 days issuance of a final non-appealable certificate.

			local units who have CREOs and one denies or fails to act so the project goes to MPSC, do both lose their grant? Does the whole project—or only the denied portion--go?	
	(2)	Upon filing of application with commission, applicant provides notices of the opportunity to comment on the application in form and manner prescribed by the commission. The notice must be published in a newspaper of general circulation in each affected local unit or comparable digital alternative. The notice must be written in plan, nontechnical, and easily understood terms and shall contain a title that includes the name of the application and the words "NOTICE OF INTENT TO CONSTRUCT _____ FACILITY" with words wind energy, solar energy or energy storage inserted. [The commission shall further prescribe the format and contents of the notices.]		
	(3)	The commission shall conduct a proceeding on the application for a certificate as a contested case under MAPA of 1969, MCL 24.201-24.328. An affected local unit, participating property owner, or nonparticipating property owner may intervene by right.		

	(4)	The commission may assess reasonable application fees to cover the cost of the commission's administrative costs in processing the application. Commission may retain consultants to assist with evaluating issues raised by the application and may require the applicant to pay the cost of the services.		
	(5)	The commission **shall grant** the application and issue a certificate or deny the application no later than 1 year after it is filed.		
	(6)	In evaluating the application, the commission shall consider the feasible alternative developed locations described under subsection 225(1)(n), if applicable, and the impact of the proposed facility on existing and future local land use, including the percentage of land within the local unit of government dedicated to energy generation. The commission may condition its grant of the application on the applicant taking additional reasonable action related to the impacts of the proposed energy facility, including, but not limited to:	Will the commission consider not just existing local land use, but also future land use plans?	This provides important clarification to guide applicants in preparing their application materials and to guide the commission in evaluating the proposal.
	(a)	Establishing and maintaining vegetative ground cover for the life of facility; this provision does not apply to a facility on a brownfield site.		
	(b)	Meeting or exceeding pollinator standards throughout the lifetime of the facility, as established by MSU's Michigan Pollinator Habitat Planning Scorecard for Solar Sites in effect on 11/29/2024 or any applicable successor standards approved by the commission as reasonable and consistent with the purposes of this subdivision. Seed mix used shall not include invasive species identified by		

		MSU's Midwest Invasive Species Information Network. This subdivision does not apply to a facility on a brownfield site.		
	(c)	Providing for community improvements in the affected local unit		
	(d)	Making a good-faith effort to maintain and provide proper case of party where the energy facility is proposed to be located during construction and operation.		
	(7)	The commission shall grant the application and issue a certificate if it determines **all of the following:**		
	(a)	**Public benefits** of the proposed facility justify its construction. Public benefits include, but are not limited to, expected tax revenues, payments to participating property owners, community benefit agreements, local job creation, and contributions to meeting identified energy, capacity, reliability or resource adequacy needs of the state. In determining contributions to meeting needs, the commission may consider approved IRPs, renewable energy plans, annual electric provider capacity demonstrations, or other proceedings before the commission, a regional transmission organization or FERC		
	(b)	Energy facility complies with §1705(2) of MNREPA, MCL 324.1705		
	(c)	Applicant has considered and addressed impacts to the environment and natural resources, **including, but not limited to**, sensitive habitats and waterways, wetlands and floodplains, wildlife corridors, parks, historic and cultural sites, and threatened or endangered species.		
	(d)	The applicant has met the conditions of §227		

		[host community agreement]		
	(e)	**All of the following:**		
	(i)	Installation, construction, or construction maintenance uses apprenticeship programs registered and in good standing with the US Department of Labor, 29 USC 50-50c		
	(ii)	Workers employed for construction or construction maintenance are paid a minimum wage standard not less than the wage and fringe benefit rates prevailing in the locality where the work is to be performed as determined under 2023 PA10, MCL 4081101-408.1126 or 40 USC 3141-3148, whichever is higher		
	(iii)	To extent permitted by law, entities performing the construction or construction maintenance work will enter into a project labor agreement or operate under a collective bargaining agreement for the work to be performed		
	(f)	The proposed facility will not unreasonably diminish farmland, including, but not limited to, prime farmland and, to the extent that evidence of such farmland is available in the evidentiary record, farmland dedicated to specialty crops.		
	(g)	The proposed facility does not present an unreasonable threat to public health or safety.		
	(8)	A proposed facility meets §(7)(g) [public health and safety] if it complies with the following, as applicable:		
	(a)	**For a solar energy facility, all of the following:**		

	(i)	Minimum setbacks, as measured from nearest edge of perimeter fencing, of 300 feet to nearest point on the outer wall of an occupied community building or nonparticipating dwelling; 50 feet from public ROW as measured from the nearest edge of the ROW; 50 feet from the nearest shared nonparticipating property line		
	(ii)	Fencing that complies with latest version of NEC or any applicable standard approved by the commission as reasonable and consistent with the purposes of this subsection		
	(iii)	Solar panel components do not exceed a maximum height of 25 feet when arrays are at full tilt		
	(iv)	Does not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest nonparticipating dwelling using the ANSI A-weighted scale		
	(v)	Implements draft sky-friendly lighting solutions		
	(vi)	Complies with any more stringent requirements adopted by the commission, upon the commission determining that the requirements are necessary to comply with state or federal environmental regulations		
	(b)	**For a wind energy facility, all of the following:**		

	(i)	Minimum setbacks, as measured from the center of the base of the wind tower, of: 2.1 times the maximum blade tip height to the nearest point on the outside wall of an occupied community building or nonparticipating residences; 1.1 times the maximum blade tip height to the nearest point on the outside wall of residences or other structures on participating property; 1.1 times the maximum blade tip height to nonparticipating property lines; 1.1 times the maximum blade tip height to the centerline of the public road ROW; 1.1 times the maximum blade tip height to centerline of an easement containing overhead community and electric transmission lines other than utility service lines to houses or outbuildings		
	(ii)	Each wind tower is sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours of shadow flicker per year under planned operating conditions as indicated by industry standard computer modeling.		
	(iii)	Each wind tower blade tip does not exceed the height allowed under a DNH by the FAA		
	(iv)	Does not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest nonparticipating dwelling using the ANSI A-weighted scale		

	(v)	Equipped with functioning light-mitigating technology. During construction, a turbine may be lighted with temporary lighting until permanent lighting configuration is implemented. The commission may grant a temporary exemption to this require if installation of light-mitigating technology is not feasible. A request for temporary exemption must be in writing and state all of the following:		
	(A)	The purpose of the exemption		
	(B)	The proposed length of the exemption		
	(C)	A description of the light-mitigating technologies submitted to FAA		
	(D)	Technical or economic reason a light-mitigating technology is not feasible		
	(E)	Any other relevant information requested by the commission		
	(vi)	Meets any standards concerning radar interference, lighting, subject to subparagraph (v) or other relevant issues as determined by the commission		
	(vii)	Complies with any more stringent requirements adopted by the commission, upon the commission determining that the requirements are necessary to comply with state or federal environmental regulations		
	(c)	**For an energy storage facility, all of the following:**		
	(i)	Minimum setbacks, as measured from the nearest edge of the perimeter fencing of the facility, of: 300 feet from the nearest point on the outer wall of an occupied community building or nonparticipating dwelling; 50 feet from nearest edge of a public road ROW; 50 feet		

		from nearest shared nonparticipating property line		
	(ii)	Complies with the version of the NFPA 855 Standard for Installation of Stationary Energy Storage Systems in effect 11/29/2024 or any applicable successor standard adopted by the commission as reasonable and consistent with the purposes of this subdivision		
	(iii)	Does not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest nonparticipating dwelling using the ANSI A-weighted scale		
	(iv)	Implements dark sky-friendly lighting solutions		
	(v)	Complies with any more stringent requirements adopted by the commission, upon the commission determining that the requirements are necessary to comply with state or federal environmental regulations		
	(9)	The certificate must identify the location of the energy facility and its nameplate capacity.		
	(10)	If construction is not commenced within 5 year after the date of the certificate, the certificate lapses, but the electric provider/IPP may seek a new certificate. If a certificate is appealed before the commission or in court, the 5-year period is tolled from the date of filing of the appeal until 60 days after issuance of a final, non-appealable decision. The commission may extend the 5-year period at the request of the applicant and upon a showing of good cause without requiring a new contested case proceeding.		

460.1227	227	**Community Host Agreements**		
	(1)	Applicant for a certificate must enter a community host agreement with each affected local unit. Host agreement must require that, upon commencement of any operation, the owner pay the affected local unit $2K per megawatt of nameplate capacity located within the affected unit. The payment must be used, as determined by the affected local unit, for police, fire, public safety, or other infrastructure or for other projects as agreement by the local unit and the applicant.	Will each affected local unit get $2k/MW? If a project is partially in a village, will the developer pay $6k/MW for that portion ($2k each to county, township, and village)?	By not changing the definition of affected local unit of government, this would suggest that the developer will be paying at minimum $4k/MW.
	(2)	If an affected local unit refuses to enter into a host agreement after good-faith negotiations with applicant, applicant may enter a community benefits agreement within 1 or more community-based organizations within or that serve residents of the affected local unit. The amount paid by applicant must be equal to or greater than what the applicant would pay the affected local unit under subsection 1. Community benefit agreements must prioritize benefits to the community in which the facility is to be located. Topics and specific terms may vary and may include, but are not limited to, any of the following:		
	(a)	Workforce development, job quality, job access that include, but are not limited to any of the following:		
	(i)	Terms of employment, such as wages and benefits, employment status, workplace health		

		and safety, scheduling, career advancement		
	(ii)	Worker recruitment, screening and hiring strategies and practices, targeted hiring planning and execution, investment in workforce training and education, and worker input and representation in decision-making affecting employment and training		
	(b)	Funding or providing specific environmental benefits		
	(c)	Funding or providing specific community improvements or amenities such as park and playground equipment, urban greening, enhanced safety crossings, paving roads, and bike paths		
	(d)	Annual contributions to a nonprofit or community-based organization that awards grants		
	(3)	A host or community benefits agreement is legally binding and inures to the benefit of the parties and their successors and assigns. The commission must enforcement this requirement, but not the actual agreements, which are enforceable by courts		
460.1227a	**227a**	**Certified Completion Reports**		
		Before commencing commercial operations, an applicant must file a completion report certifying compliance with the requirements of the Act and any conditions contained in the commission's certificate		
460.1228	**228**	**FOIA Provisions**		
	(1)	Information obtained by commission is a public		

		record under FOIA		
	(2)	The commission shall issue orders necessary to protect information in an application or in other documents required by the commission if the commission reasonably finds the information is confidential. Information that is confidential under a protective order is exempt from disclosure under FOIA		
460.1229	**229**	**Review of Commission Orders**		
		A commission order relating to a certificate or any other matter provided for under Part 8 is subject to review in the manner provided by §26 of 1909 PA 442, MCL 15.231-15.246		
460.123	**230**	**Commission Powers and Conflicts of Law**		
	(1)	In administering Part 8, the commission only has those powers and duties granted to the commission under Part 8		
	(2)	The commission may consolidate proceedings under Part 8 with the contract approval or other certificate of need cases relating to the same facility		
	(3)	Part 8 controls over any conflict between Part 8 and any other state law, except the electric transmission certificate act, 1995 PA 30, MCL 460.561-460.575, which controls in case of conflict		
	(4)	Commission approval of a certificate does not confer the power of eminent domain and is not a determination of public convenience and necessity for purposes of the power of eminent domain or a condemnation action		

460.1231	231	Local Law Conflicts and Issued Certificates		
	(1)	A local ordinance cannot prohibit or regulate testing activities undertaken by electric provider/IPP for purposes of determining site suitability		
	(2)	If a certificate is issued for a facility under Part 8, a zoning ordinance or limitation imposed after the electric provider/IPP submitted the application to the commission shall not be construed to limit or impair the construction, operation or maintenance of the facility.		
	(3)	If a certificate is issued, the certificate and Part 8 preempt a local policy, practice, regulation, rule or other ordinance that prohibits, regulates, or imposes addition or more restrict requirements than those specified in the commission's certificate.		
	(4)	If a certificate is not issued, all local policies, practices, regulations, rules, or ordinances relating to the siting of energy facilities, including, but not limited to, the local zoning authority's power to grant variances, remain in full force and effect.		
	(5)	Except as provided in this section, this part does not exempt an electric provider or IPP to whom a certificate is issued from obtaining any other permit, license, or permission to engage in the construction or operation of an energy facility that is required by federal law, any state law, including by not limited to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, any rule promulgated under a law of this state, any airport zoning ordinance adopted in accordance	Sections 231 (3) & (5): How do Airport Zoning and Natural Rivers zoning factor in?	Provides clarification regarding the relationship of this Act with other zoning authorities not covered in the MZEA and makes treatment of them consistent with the other authorities identified here.

		with the airport zoning act, 1950 PA 23 (Ex. Sess.) or natural rivers zoning adopted in accordance with the Natural Rivers Zoning Rules, or a local ordinance.		