

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF RENEWABLE ENERGY SITING

**COMMENTS ON
Draft Regulations
Chapter XVIII, Title 19 of NYCRR Part 900
Subparts 900-1 – 900-14**

On Behalf of Save Ontario Shores, Inc.
and named signatories across upstate, western and
the Southern Tier of New York

Appendix H

- Review and comments on the proposed Uniform Standards. These comments address subjects not already covered in other appendices. Prepared by Kate Kremer, Save Ontario Shores, Inc. VP

SOS

Save Ontario Shores, Inc.

PO Box 382, Lyndonville, NY 14098
www.SaveOntarioShores.com
Info@SaveOntarioShores.com

December 2, 2020

State of New York
Department of State
Office of Renewable Energy Siting

Subject: Comments on Behalf of Save Ontario Shores, Inc.
Draft Regulations: Chapter XVIII, Title 19 of NYCRR Part 900, Subparts 900-1–
900-14

Addressing the following Draft Regulations Sections:

900-6 Uniform Standards and Conditions - General

900-6.1 Facility Authorization

900-6.4 Facility Construction and Maintenance

900-6.4 (k): Construction Noise: See Rob Rand's comments SOS Appendix A.

900-6.4 (l): See Gary Abraham's Shadow Flicker comments on 900-2.9(d)(2) SOS Appendix C.

900-6.4 (o-s): See Karen Schneller-McDonald's comments SOS Appendix B.

900-6.5 (a)(b) Noise: See SOS Appendix A.

900-6.6 Decommissioning

900-6 Uniform Standards and Conditions

In General: This subpart of the draft regulations is not a complete listing of uniform standards and conditions as it does not include setbacks, lighting and other standards that are identified in the regulations. Noise regulations are divided between this subsection and other parts of the regulations. Pre-application activities are not included in the standards. What designates a standard from other aspects of the regulations? This regulation should be revised to include a definition of uniform standards and conditions.

900-6.1 Facility Authorization

900-6.1 (h): Seven years is excessive for a siting permit without commencement of commercial operation. Permittees are generally requesting modification within a year and a process that extends for 7 years would offer excessive modification opportunities without public participation. Projects that are not operational in four years should require a rehearing and public notice and opportunity for comment and additional funding for municipalities and parties.

900-6.4 Facility Construction and Maintenance

900-6.4 (a): Construction hours that include 13 hours a day and 12 hours on Sundays and holidays is excessive in a rural residential zone. In New York City, a densely populated and much noisier environment, the Noise Code limits construction to the hours of 7am to 6 pm on weekdays, and for all other construction, a special hours authorization is required. On what basis does ORES determine that 7 a.m. to 8 p.m. on weekdays and 8 a.m. to 8 p.m. on Sundays and holidays is acceptable? Uniform Standards should be based on reasonable requirements that will not need to be adjudicated. This is not a building project that will be completed in a few weeks or a month. These projects are massive and will involve clearing trees, building foundations and then structures. Given the speed with which ORES anticipates projects being permitted, there will be ample time for construction. Residents should not have 12-13 hours per day of construction activities, including construction traffic, on weekends and holidays.

When, during these long construction hours over the course of a year or more, would ORES suggest that residents who desire a quiet rural setting plan a wedding or funeral?

Construction “continuous operation requirements” are listed as reason to extend these hours with only 24 hour notice. Given the very long construction hours, it is not reasonable that there would be given automatic extensions with a mere notice. This is disrespectful of the residents who are already putting up with substantial inconvenience. Solutions including 7-14 day notification and some blackout construction times for activities within 3000 feet of local events could be implemented. Authorization by local officials should be required.

Construction hours draft standards must be revised based on consultation with towns across the state, analysis of town construction hours, local laws, and justification for failure to require, at a minimum, the New York City code standards.

900-6.4 (k): construction noise: See Rob Rand's comments SOS Appendix A.

900-6.4 (l): See Gary Abraham's Shadow Flicker comments on 900-2.9(d)(2) SOS Appendix C.

900-6.4 (o-s): See Karen Schneller-McDonald's comments SOS Appendix B.

900-6.5 Facility Operation

General: The draft Uniform Standards for Facility Operation are limited to noise standards. There are numerous other issues that should be included in this section. Radar activated lighting should be a standard at all industrial wind projects.

Wind operations monitoring of mortality and curtailment for birds and bats should also be a standard and included in this section.

In the same manner that brownfields are encouraged for industrial renewables siting, there should be some regions that are discouraged. The regulations should standardize that facility operations will not take place in some locations. These should include migratory pathways and ridgelines, prime agricultural land, grasslands, wetlands, forests, proximity to state parks and other state lands and tourist areas.

900-6.5 (a)(b) Noise: See SOS Appendix A.

900-6.6 Decommissioning

Future salvage value for the components of industrial renewables is uncertain. Host municipalities cannot be expected to have the resources to restore a site if the decommissioning fund is not sufficient. In order to protect the towns and the State from unfunded abandoned renewables, salvage value should not be used in this calculation. If the permittee and the host municipalities cannot come to an agreement as to the manner and amount of financial responsibility, the decision should be placed in the hands of an independent third party for review and settlement. ORES does not have expertise in long term financial costs and risks.